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"Soft Coordination of European Higher Education: Genesis, form and democratic legitimacy of the Bologna Process"

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ACA	Academic Cooperation Association
ACP-countries	African, Caribbean and Pacific countries
BFUG	Bologna Follow-up Group
BMBF	Federal Ministry of Education and Research (Germany)
BMBWK	Federal Ministry for Education, Science and Culture (Austria)
BPG	Bologna Preparatory Group
CEPES	European Centre for Higher Education
CERI	Center for Educational Research and Innovation
CRE	Association of European Universities
EAIE	European Association for International Education
ECJ	European Court of Justice
ECTS	European Credit Transfer System
EEA	European Economic Area (EU + Norway, Iceland and Liechtenstein)
EHEA	European Higher Education Area
EI	Education International
ENIC	European Network of National Information Centres on Academic
ENQA	European Association for Quality Assurance in Higher Education
ERA	European Research Area
EUA	European University Association[1]
EURIDYCE	The Information Network on Education in Europe
ESIB	The National Unions of Students in Europe[2]
ESU	Europeans Students' Union
EURASHE	European Association of Institutions in Higher Education
EUROCADRES	Council of European Professional and Managerial Staff Recognition and Mobility
INES	International Indicators of Educational Systems
ISCED	International Standard Classification of Education
KMK	Kultusminister Konferenz
NARIC	National Academic Recognition Information Centre
OECD	Organisation for Economic Co-operation and Development
OMC	Open Method of Coordination
PISA	Programme for International Student Assessment
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICE	Union of Industrial and Employers' Federation of Europe[3]
WEU	Western European Union

[1] The European University Association (EUA) is the is a result of the merger between the *Association* of European Universities (CRE) and the confederation of European Union Rectors' Conferences (http://www.eua.be) in march 2001.
[2] In 2007 ESIB decided to change its name to ESU.
[3] UNICE changed its name to BUSINESSEUROPE (since 23 January, 2007)

2 Introduction

Since the 1970ies silent but nonetheless important changes have taken place. They are altogether an expression of a "shedding of limitations". As one fundamental result of these developments, national politics alone, are decreasingly able to produce the desired results: "The steering capacity of governments has significantly decreased in issue areas where the scope of real economic and societal activities transcend the limits of national borders and rules" (Zürn 1996: 32, own translation). Additionally the number of problems that can no more be handled by a single state, due to this "shedding of limitations" has increased in the last decade (Jachtenfuchs 2003: 508). Hence nation states react at the international level with the creation of international institutions – regimes and organizations – to gain back steering capacity, and to adjust the scope of political rules to the limits of social correlation of action (Zürn 1996: 33). The form and degree of formalization of these international cooperations varies widely. New forms of governance beyond the nation states emerge as a consequence of the increasing number of transnational social spaces.

In many policy areas in Europe cooperation problems that emerge due to transnational exchange and the increase of international interdependences are handled within the framework of the European Union. The integration process and the creation of supranational institutions therefore, can be regarded as one answer, given to the declining steering capacity of the nation states alone. Nonetheless it is important to keep in mind that the integration process, especially the process of negative integration has in multiple ways contributed to this limitation of national steering capacity, too (Scharpf 1999; Streeck 1995). Additionally the EU arena is only one part of this policy making beyond the nation state and one should therefore not fall into the trap of regarding other European transnational policy regimes, as weaker forms of cooperation or second-best solutions, per se (Wallace et al. 2005: 8).

In the absence of a central super authority several forms of governance[4] take place in the international system. The scope thereby ranges from hierarchical forms with a central authority existing, to forms of self-organization without governmental

[4] In International Relations the term governance is used for just describing authority structures without a sovereign superior instance, whereas in other contexts and scientific schools this term is used in different ways, covering quite a range of different meanings (Mayntz 2004).

involvement. The main forms of governance beyond the nation state are international institutions. The latter are defined in this context as entities establishing permanent and stable behavior patterns of a specific number of actors in repeating situations. These behavior patterns rest on norms and rules, which define the repertoire of action. Additionally international institutions create spheres of authority (Zürn 1998: 169ff.).

Institutional form or design is one important factor, amongst others like "type of problem", or "constellation of actors", on which the success of governance beyond the nation state is based (Jachtenfuchs 2003: 509). It is legitimate to assume, that both the type but also the form of a political institution influences the outcome, and that different institutions lead to different outcomes (Levy et al. 1995: 274). In short, institutions and their concrete form do matter or as March and Olsen put it: "institutions affect the flow of history" (March/Olsen 1989: 159). Hence the study of institutional form or design is one important array of research that should not be simply overlooked.

In the context of EU research alternative modes of governance, often labeled new modes of governance, have received much attention recently (Caporaso/Wittenbrinck 2006). They are characterized by their non-bindingness, subsidiarity and the use of soft law[5]. The mechanisms at work are diffusion, learning, persuasion, standardization and time management. A basic typology distinguishes two main types: a) Development of substantive targets b) Definition of procedural norms. The first type can be further divided into two subtypes, concerning the way the agreed upon targets shall be reached[6] (Caporaso/Wittenbrinck 2006; Héritier 2002). The increased interest in these forms of governance can be mainly traced back to the invention of the so called Open Method of Coordination (OMC), which was first specified for the European employment strategy, that is known as the Luxembourg process (Scharpf 2002: 653), and later formally introduced by the Lisbon Summit (Scharpf 2005: 13). Open coordination has received much academic attention so far (e.g. Radaelli 2003). Nonetheless the OMC should not be regarded as a wholly new governing mode as its fashionable label may imply. Taking into account international and historical comparisons, it becomes clear that it is just one

[5] There exist different definitions and is has to be noted that soft law is a term that has been used to describe a range of processes (Trubek et al. 2005: 5). In the following this definition will be used: "Rules of conduct that are laid down in instruments which have not been attributed legally binding force as such, but nevertheless may have certain (indirect) legal effects, and that are aimed at and may produce practical effects" (Senden 2004: 112).

[6] See also Figure 10 in the appendix

special form of multilateral surveillance, that has been used in other organizations for years (Schäfer 2005: 16). Therefore the notion of a new, innovative or even "experimental" (Szyszczak 2006) mode of governance can be misleading[7]. The latter point makes clear that despite its high grade of delegated and pooled sovereignty[8], and the necessity of distinguishing the EU from other International Organizations, policy making in the EU takes several different forms of which the traditional community method is just one among other forms. Policy-making in the European Union includes different policy modes: the traditional community method, the EU regulatory mode, the EU distributional mode, policy coordination, intensive transgovernmentalism (Wallace 2005a: 77ff.).

Whereas the Community Method was extremely effective in promoting integration, it has ceased to do so in recent years (Schäfer 2006b: 2004). "Rather than moving towards a functionally integrated and territorially consolidated state, or state-like entity, the European Union is developing into a collection of overlapping functionally specific arrangements for mutual coordination among varying sets of participating countries" (Streeck 1996: 70). This variation in the geometry of integration "uniquely fits the principles of intergovernmental cooperation among sovereign nation-states" (Streeck 1996: 70). Streeck's notion makes it clear that cooperation does not necessarily have to take place inside the EU. European states, being embedded in a plurality of international institutions, face a broad range of alternatives between cooperation and anarchy regarding institutional form. In the past the form chosen often was integration but voluntaristic forms of cooperation are on the increase (Schäfer 2005: 228). The "classic" Community method still remains important for a number of policy fields but: "It has not, however, become the dominant pattern, as early theorists suggested and Commission enthusiasts hoped" (Wallace 2005b: 486f.).

Democracy is an additional important issue that should not be left out when discussing governance beyond national borders. Although the creation of international institutions is mainly due to solve common problems on the appropriate level, this proceeding does

[7] Additionally it is more accurate to talk of multiple types of OMCs (Hatzopoulos 2007) and not of *the* one OMC.

[8] By pooling of sovereignty "voting by other procedures than unanimity" (Schmimmelfennig 2004) – in the context of the European Union mainly qualified major voting – is meant. Delegation implies a transfer of sovereign powers to semi-autonomous central institutions (Moravcsik 1993).

however often entail negative consequences for the democratic legitimacy of governance, inside the state as well as at the international level. Hence not only the positive sides of international cooperation should be stressed but also this so-called "dark side of intergovernmental cooperation" (Wolf 1999: 334).

3 Research topic

In 1998 four European ministers responsible for matters of higher education signed a declaration that emphasized their will to harmonize their systems of higher education and to invent a study structure based on two main cycles. Ten years later 46 countries, ranging from Austria to Azerbaijan voluntarily cooperate under participation of a bunch of organizations including the European Commission as well as the European Student's Union, and aim at the establishment of a common European Higher Education Area by the year 2010. Under the label "Bologna Process" the most far-reaching European reform of higher education systems that has ever taken place, even entails the sweeping away of longtime preserved heritages of national higher education traditions virtually over night. Bachelor-, Master- and PhD-programs sprout like mushrooms and increasingly the traditional landscape of Continental Europe's higher education structures changes. The whole amount of consequences and implications this initiative has on European higher education in general, on all the institutions of higher education and not at least on all the citizens concerned, be it students or teachers cannot yet fully be appreciated.

The field of higher education[9] in Europe is of particular interest due to the changes that have taken place in the last decade. One site of interest in particular, is the relation between the European Union and its member states, which is characterized by tensions between national sovereignty in the field of higher education and the drive towards more integration promoted by the European Commission. As in other policy fields, the Commission's expansion of competences, but also the rulings of the European Court of Justice[10] were criticized by the member states. Within the Treaty of Maastricht, the authority and the competence of the European Union concerning the content of teaching and the structures of the national education systems was restricted:

[9] The terms "higher education" and "tertiary education" are used in this research project the same way. Due to reasons of comparison the International Standard Classification of Education (ISCED 1997), which is used by Eurydice, the OECD and UNESCO's Institute for Statistics is employed here too. According to ISCED, higher or tertiary education encompasses level 5 and 6 (UNESCO 2006b), which mainly describes education that takes place at universities tertiary colleges (ISCED 5a/b) and studies that lead to advanced research qualification, like a Ph.D. (ISCED 6). It has to be mentioned that the category ISCED 5a encompasses Bachelor as well as Master degrees (Kelo et al. 2006).

[10] On this point see for example: (Blitz 2003; Beukel 2001; Walkenhorst 2005).

> "*The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity" (art. 149/1 TEC).*

The sovereignty of the Member States and the subsidiarity principle clearly set the limitations for community actions. With the signing of the "Joint Declaration on harmonization of the architecture of the European higher education system" ("Sorbonne Declaration") that took place in the course of the Sorbonne University's eight hundredth anniversary celebration (Hackl 2001b: 1) it became clear that some European states actively sought to coordinate their higher education policy in another institutional framework than the EU. This initiative to harmonize parts of the higher education systems surprised most of the EU member states and led to intensive discussions that were followed by further attempts to deepen and widen this cooperation. The signing of the Bologna Declaration ("Joint Declaration on the European Higher Education Area") in 1999 finally marked a visible shift of the dominating paradigm. While system diversities and strong rejection of any attempts to harmonization dominated for decades, with Bologna a need and will to adapt (the term "harmonization" was still rejected and therefore replaced through compatibility and comparability) the national structures of higher education was formulated. Regarding the legal meaning of the Bologna Process it is evident that this process stands formally outside the European Union's treaty system (Linsenmann 2002: 527). The Bologna Declaration doesn't possess formal relevance according to international law (Pechar 2003: 30; Seifert 2004: 38), and the signing states are not legally bound to comply (Huisman/Van der Wende 2004: 352). Therefore the realization of the Bologna objectives requires the voluntary action of the participating states.

As Figure 11 shows, a bundle of institutions and International Organizations deal with matters of higher education policy in Europe and influence national systems of higher education. Whereas the EU action programs take place in the framework of the European Community, the Lisbon Strategy[11], which is also relevant to the field of higher education, as well as the Bologna Process represent two soft-law based

[11] See: Presidency conclusions, Lisbon European council. 23 and 24 march 2000. (http://europa.eu/european_council/conclusions/index_en.htm)

processes. These two processes can be distinguished in three dimensions. First Lisbon encompasses more than just one policy field, whereas the Bologna Process is solely situated in the area of higher education. Second, the Bologna Process and the Lisbon strategy represent different forms of soft coordination. Bologna focuses much more on specific goals and concrete content, whereas Lisbon exactly defines the methods how to achieve broadly formulated goals. Third these two processes differ strongly concerning their effectiveness, as far as it can be measured by now. Actual surveys show that the main Bologna Process goal, the invention of the two cycle study structure, is quite advanced (Eurydice 2005b), although the concrete implementation surely differs from country to country according to already existing analyses.[12] On the contrary the efforts of the Lisbon strategy in reaching its goals are being rated quite poor.[13] The underlying difficulty of distinguishing outcomes due to the effectiveness of OMC processes from other externalities still remains (Szyszczak 2006: 497). Additionally the Lisbon Strategy has already been subject to analyses dealing with the question of soft cooperation (Schäfer 2005), which is not the case with the Bologna Process.

[12] For national implementation studies regarding the Bologna Process see for example: (Dittrich et al. 2004; Furlong 2004; Malan 2004; Pechar/Pellert 2004; Welsh 2004). For more comparative syntheses see: (Tauch 2004; Kehm/Teichler 2006).

[13] For surveys concerning the effectiveness of the Lisbon strategy in achieving its goals see for example: (European Commission 2006; Kaiser/Prange 2005; Archibugi/Coco 2005; Campbell 2006).

4 Research interest and main research questions

Summing up the main issues mentioned above, the Bologna Process represents a very interesting case to analyze. Not only because it is an actual example of soft coordination at the European level (an aspect which has not been analyzed till now) but also due to the fact that it helps us to understand the actual dynamics of cooperation in distinct policy fields at the European level. As stated above the classic Community method is no more the dominant pattern. Instead, other less binding forms of cooperation emerge. Nonetheless this does not mean that the European Union in general does not play a role, or that the European Commission in particular is not able to influence these new institutions at all. Not at least, the critical scientist also has to try to identify the implications of these soft forms of coordination, which may include further democratic deficits and problems. Hence following Wolf (1999), the question about consequences for the democratic legitimacy of governance can therefore not be simply left out and will be discussed in this dissertation.

The main research questions can be stated as follows:

1. *What explains the genesis of the Bologna-Regime?*
2. *How can the institutional design of the Bologna-Regime be explained?*

2a. *Why does this cooperation take place outside the EU?*

2b. *Why does this cooperation solely base on soft coordination?*

3. *What are the implications and consequences of the Bologna-Regime for the democratic legitimacy of governance?*

5 Structure of thesis

This thesis proceeds as follows: In the next chapter the theoretical framework, in which the research questions are embedded, will be worked out. This encompasses a state of the art discussion of theoretical approaches suitable to adapt to the research question and a debate why alternative approaches have not been considered useful in this context. Additionally the main terms and concepts used in this dissertation will be defined. After a profound discussion of the chosen theoretical approaches, always in reference to the respective research questions, hypotheses will be derived. Chapter 7 discusses the methodological aspects of this dissertation project. Starting with an explanation of the research design, the concrete methods of data collection and analysis will be discussed. The following chapters (8 and 9) provide the necessary information concerning main trends and recent developments, in the area of European higher education policy, as well as existing cooperation in this policy field. Chapter 10 constitutes the Bologna Process as an international regime, following the theoretical approaches. In chapter 11 the first research question, concerning the emergence of this regime is answered. Chapter 12 engages with explaining the form of this distinct regime, why it does take place outside the European Union framework and why this initiative does only base on soft coordination. In the following chapter (13) that is the last empirical part of this dissertation, after a short overview about problems and deficits of democracy beyond the nation state, a framework for analyzing the democratic legitimacy and quality of this specific regime is developed and finally applied. The conclusion finally takes up the main findings, connects them with the research questions formulated in advance and discusses them under reference to the theoretical framework. Some remarks concerning possible theoretical future developments will be made as well as a short outlook concerning avenues for further research in this policy field.

6 Theoretical framework

6.1 Introduction

It is evident that a theoretical framework encompassing the research questions stated above can hardly consist of one single all-explaining theory. Instead it is necessary to use and combine several approaches and concepts to gain as much explanatory power as possible. The research questions will be mainly embedded into an institutionalist, namely a regime-theoretical perspective, as the first question already implies. Regime theory has many advantages over other approaches. The most important one is its general applicableness. Therefore it cannot be only applied in the EUropean context, as is the case with some other theoretical approaches. Furthermore the questions that are of interest in this research project are exactly the questions regime theory deals with: How and why does cooperation at the international level take place and which shape do the emerging institutions take?

Before turning to other theories that could contribute to an explanation on important issue still has to be mentioned: When it comes to explaining the form or design an institution takes, a lot of explanations found in the literature engaged with soft law are merely based on functional arguments that can be traced back to one general theme, which states that soft law is the appropriate way to deal with a given coordination problem. These arguments stress the flexibility, the simplicity or the low contracting costs in addition to the adequateness concerning the diversity of participating actors (Trubek et al. 2005; Schäfer 2006b). The theme that "institutions emerge as good things, and it is their goodness that ultimately explains them […] They exist and take he forms they do because they make people better off" (Moe 2005: 216), is a common one. But pure functional explanations are not enough. Neither societal functionalism, nor actor-centered functionalism can account for explaining institutional choice, development and form alone, due to a bundle of limitations (see: Pierson 2004: 109-121, 2000b). In addition the notion that a particular institution is designed to achieve one particular goal, understates the problems of balancing competing interests of actors involved. Therefore "one cannot equate the initiators' goals with the final outcome of these compromises" (Schickler 2001: 13). Furthermore it is important to stress the point that, for social research that is oriented towards explanation, functional arguments alone do

not suffice. Given the function is held constant, they would let us expect similar solutions, which is falsified by the immense variation of institutional solutions (Mayntz/Scharpf 1995b: 15).

Other research projects work with the Europeanization approach to explain the recent developments in the field of higher education[14] , stressing the bottom-up dimension of this concept. This also points to a big problem of the Europeanization concept: Europeanization means (too) many things[15]. Originally it was used for the study of effects stemming from the European level on the national level (Radaelli 2000), but in the meantime also other interpretations and applications exist (Olsen 2002; Risse et al. 2001). Due to this reasons I prefer not to join this strand of theory.

The same applies to integration theories. Although some scholars proposed to use integration theories to explain why the Bologna Process takes place outside the framework European Union (eg. Barkholt 2005), maybe following Schmitter (2004b: 47), who claimed that "any comprehensive theory of integration should potentially be a theory of disintegration. It should not only explain why countries decide to coordinate their efforts across a wider range of tasks and delegate more authority to common institutions, but also why they do not do so[16]", the explaining of non-integration equipped with theories that are created to explain integration seems a difficult task. Hence integration theories cannot contribute too much in this case, although it is clear that possible explanations may be found in different integration theoretical approaches. Clearly the third stage of Moravcsik's Liberal Intergovernmentalism (Moravcsik 1998, 1993), one of the most, if not the most influential approach in the explanation of European Integration and in the development of European integration theory, could be used for deriving hypotheses. Nonetheless this would require a more or less complete disregarding of other main assumptions this approach states, in other words a misapplication of Liberal Intergovernmentalism. The same holds for the other main strand of integration theory, Neo-functionalism (eg. Stone Sweet/Sandholtz 1997; Sandholtz/Stone Sweet 1998). Especially the mostly intergovernmental character of soft

[14] See for example (Bache 2006; Pechar 2003; Trondal 2002).
[15] The same applies to most of the studies dealing with "internationalization", or "globalization" of higher education, although here the variation is even bigger. See for example (Enders 2002; Luijten-Lub et al. 2005; Teichler 1998, 2004; Van der Wende 2003; Vijlder 2001).
[16] The normative – or even deterministic – notion of this statement should be considered.

coordination can hardly be integrated into an explanation stemming from the neo-functional perspective, stressing the importance of supranational actors. Additionally it should not be ignored that there exist legal restrictions against a harmonization of higher education structures in the framework of the EU, namely a lack of treaty base (Walkenhorst 2005). On a more general base it has to be noted that, the role of the European Union is sometimes exaggerated in the scientific debate and that it's often the real question, under which extraordinary circumstances states choose hard forms of coordination (Schäfer 2005: 17). As a consequence a framework designed to explain the emergence and form of a soft-coordinated arrangement at the international level, has to shift its perspective from the narrow angle of theories clustering around the explanation of European Union matters.

After having underlined the usefulness of regime theory compared to other approaches for this dissertation project the chapter proceeds as follows: First the necessary definitions of the main terms and concepts will be given, to clarify the starting point. As a next step the theoretical approach used in this project will be developed. After an explanation of the regime theoretical model, a refinement and enrichment with other concept will be necessary. This especially concerns concepts engaged with discussing the distinct form institutions take. Finally hypotheses will be developed, deriving from the theoretical approaches.

6.2 What are institutions? The quest for definition

Multiple definitions of the term institution exist and overall agreement about what an institution is cannot be observed. Therefore this issue deserves some discussion here. Existing definitions range from a comprehension of institutions as solely being the rules of the game (North 1993), to understandings that do not only encompass formal rules but also social norms and that view institutions as shared scripts. Generally, it can be stated that the answer to the question what an institution is, depends heavily on the theoretical approach one employs (Peters 1999). The same goes true for questions of how these institutions emerge and through which processes they change. Scholars working in a rational choice tradition would surely attribute other characteristics to institutions than sociological institutionalists, whereas anthropologist would presumably employ a much more encompassing approach, even including customs or rites. This

research project aiming at something very different has to employ a definition of institution that is much more formal. Therefore only formal political institutions are taken into consideration. Following Streeck and Thelen (2005) institutions are recognized as "systems of social interaction under formalized normative control". This definition encompasses pacts and conventions that's stability depends not exclusively on the self-interested behavior of the actors directly involved (Streeck/Thelen 2005), but on at least some kind ex post control.

How do institutions emerge? Here the main insights provided in the recent literature (Streeck/Thelen 2005; Thelen 2003; Pierson 2004) are taken into consideration. Informal institutions may *evolve*, but formal political institutions that are in the focus of research here, are at least to some extent subject of an *intended development*. It is acknowledged that institutional design and form are not simply a question of choice but also of development over time and specific processes of institutional change[17]. Nonetheless there is one certain point in time – there can be even a few – when the basics of an institutions are decided on, or when the institution is heavily changed. It should be possible to identify such points. Scholars working with the concept of path dependence would call them presumably "critical junctures" (Pierson 2004; Mahoney 2000).

Institutional form or design encompasses several features. Regimes as one type of institution include not only the principles and norms, but also rules and procedures. So the grade of legal formalization and the instruments which a certain institution employs are also part of institutional form or design.

6.3 Cooperation and Coordination

Even important books dealing with issues of cooperation theory go without a definition of cooperation itself (e.g. Axelrod 1984). Nonetheless clarity of definition is highly advisable here. Yet the use of the term cooperation differs concerning the (theoretical) context in which it is employed. Cooperation cannot always be simply regarded as the absence of conflict, the opposite of confrontation or one early stage of an integration

[17] Streeck and Thelen identify five different types (Displacement, Layering, Drift, Conversion, and Exhaustion) of institutional change. They emphasize especially gradual transformations over time (Streeck/Thelen 2005).

process. A useful definition of this concept that goes beyond these – admittedly helpful – views and statements therefore has to involve actors and their interests. One widely accepted definition of the phenomenon international cooperation goes as follows:

> "Cooperation requires that the actions of separate individuals or organizations – which are not in pre-existent harmony – be brought into conformity with one another through a process of negotiation, which is often referred to as "policy coordination" [...] Cooperation occurs when actors adjust their behavior to the actual or anticipated preferences of others, through a process of policy coordination" (Keohane 1984: 51f.).

In a more general sense coordination means the process to order and adjust different goals, actions and interests. Leaving out very specific conceptualizations, that divide between positive and negative coordination (Scharpf 1993), coordination can be regarded as a process that seeks to adjust policies of separate actors with the aim of reducing the negative consequences among each other (Milner 1992: 467). Following the classic definition of Lindblom (1965: 227) a "set of decisions is coordinated if adjustments have been made in them, such that the adverse consequences of any one decision for other decisions are to a degree and in some frequency avoided, reduced, or counterbalanced or overweighed". Hence coordination is seen as the process through which actors are trying to achieve specific goals.

6.4 Regime theoretical approaches

The questions of institutional development and form can be set into a regime-theoretical perspective, which is the view preferred her in this thesis. First of all it is important to stress the point, that there does not exists the one homogenous and coherent regime theory but a bunch of different approaches and perspectives that emphasize different explanatory variables, build on different meta-theoretical assumptions and state different hypotheses concerning the questions of regime formation and design. Problems concerning a clear-cut definition of "regime" witness this evidence exemplarily.

Even the existence of a so-called consensus definition, proposed by Krasner[18] (1983) should not be misinterpreted as an endpoint in this discussion, quite the contrary. The main lines of criticism focus on the vagueness and on the problems of distinguishing between the four components of this definition of regimes (Levy et al. 1995: 270). The solution to subsume all these components under the single concept of rules as performed by Keohane (1989), has besides its pragmatic gains also costs that have to be taken into consideration (Hasenclever et al. 1997b: 12). In this research project the definition by Levy and collaborators, a modification of the consensus definition will be employed. Following Levy et al. (1995: 274) regimes are defined as "social institutions consisting of agreed upon principles, norms, rules, procedures and programs that govern the interactions of actors in specific issue areas". Principles contain the definition of goals that should be attained and causal beliefs at the level of policy fields. Norms contain the behavioral guidelines according to the principles. They describe the general rights and obligations. Although situated mainly on the level of issue area they are still very general. Rules concretize these norms, and may contain explicit targets and timetables. Procedures can be regarded as the regime's information- and decision- processes (Levy et al. 1995).

Taken altogether regimes consist of a substantive and a procedural component. The substantive component encompassing the principles, norms and rules the procedural encompassing the decision-making procedures (Hasenclever et al. 1997a). As stated above the study of international regimes can be divided into several schools or perspectives that emphasize specific variables. Many studies just focus on the role of one single factor to explain the success or the failure of efforts to create international regimes (Young 1994: 36). One possible classification is to distinguish between power-based (realist), interest-based (neoliberal) and knowledge-based (cognitivist) approaches. Whereas realists stress the importance of power including possible asymmetrical power positions that influence the content and form of a regime, neoliberals emphasize self-interest and the possibilities of common gains as one motivation for cooperation among states. Cognitivists finally employ with the actor's

[18] Regimes are "implicit or explicit principles, norms, rules, and decision-making procedures around which actor's expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice" (Krasner 1983)

causal and social knowledge (Hasenclever et al. 1997b). Since all three "power, interests and knowledge interact in the production of international regimes" (Hasenclever et al. 1997b: 211) it does not seem useful to treat the different regime-theoretical approaches as merely alternative ones. They may as well complement and enrich each other. This does not mean that there do not exist relevant differences between these perspectives. But since the aim of this thesis is to contribute to the explanation of a specific case, and not to help sharpen the borders of one school of thought by neglecting important aspects of another one, this chapter tries to combine these approaches.

Hereby especially approaches stemming from the realist and neoliberal school of thought seem to be helpful and open to combination, also due to the fact that both of them share the commitment to rationalism as a meta-theoretical foundation. The main actors are therefore states that act self-interested and goal-seeking with the aim of maximizing their individual utility (Hasenclever et al. 1997b: 23). According to this model the preferences and identities of the actors are exogenously given contrarily to knowledge-based theories of regimes that also focus on the origins of interests adding a theory of preference formation (Hasenclever et al. 1997b)[19].

The starting point for regime theoretical approaches is interdependence as the dominating characteristic of international politics. This interdependence leads to a demand for international cooperation (Kohler-Koch 1989: 22) in certain issue areas. Hence international regimes are created to overcome collective dilemmas or to integrate competing actors. Cooperation – at least in the interest-based approach – promises to make all better off (Hasenclever et al. 1997a). It has to be pointed out that regime structures are not simply logical deviations of problem field-relevant norms, rules and procedures from a consensual main principle. Regimes reflect the distribution of power, normative-institutional and situation-structural factors that play a role in the bargaining process. Even the definition of a common goal does not implicitly guarantee that a regime is coherent in itself. Goals may often be equivocal and power as well as interests do play a role here (Kohler-Koch 1989: 35ff.).

[19] The insights of this strand of theory focusing especially on the "preference formation mechanisms" that are "lacking in most rational choice accounts" (Knight 2001), like the literature on epistemic communities (Haas 1992) are regarded as important complementary accounts. Due to restrictions in time the preference formation stage cannot be analyzed in the framework of this research project too.

Regime formation or regime building can be regarded as a mostly intergovernmental bargaining process in which nonetheless, different actors are involved. This is an important point, and one should not fall into the trap of functional false conclusion. An understanding of how international regimes function does not necessarily explain their occurrence (Kohler-Koch 1989: 29; Keohane 1984) as already mentioned. Although states are the main actors, non-state actors are not excluded or seen as being irrelevant. International Organizations[20] for example are regarded as taking in an important role in the stage of regime building. They constitute communication fora that may be relevant at the stage of regime formation. Furthermore decision procedures of international regimes are often delegated to specialized organizations (Zürn 1998: 175; Kohler-Koch 1989: 32f.). Hence an analysis should also involve the identification of the relevant non-state actors. It is important to stress the point that states should ideally not be treated as unitary actors, but complex collective entities. For practical reasons this claim is nonetheless not always feasible. Therefore it is necessary to recall the decreasing abstraction principle, according to which it is not necessary to explain things at the level of individual actors, when institution-based information is sufficient to derive satisfactory explanations (Mayntz/Scharpf 1995a: 66; Scharpf 1997: 42). When this is not the case additional perspectives opening up the unitary actor black-box have to be considered. The most influential approach that helps to overcome a shortened perspective has become the two-level game approach (Putnam 1988): At the level of the actors it has to be taken into account that the national governments operate in a privileged position in the international system. Situated at the gateway between the national and the European/international level they enjoy privileged access to information and are able to use this extended room for maneuver for pursuing their own interests. This fact is taken up by the concept of two-level games (Putnam 1988).

The process of regime formation can be, at least analytically divided into three distinct types: self-generation, negotiation and imposition. Normally however the process of regime formation encompasses elements of all three processes. Whereas negotiated regimes develop out of a process of conscious bargaining, self-generating (spontaneous)

[20] It is important to note that international organizations and international regimes are not the same thing, although they are both types of international institutions (Hasenclever et al. 1997b: 10f.). Organizations can be regarded as being material entities "possessing offices, personnel, equipment, budgets, and legal personality" (Young 1994). One additional important difference is that regimes are "issue-specific institutions" (Hasenclever et al. 1997b), whereas International Organizations do not necessarily have to cover only one specific issue.

regimes do not need these conscious efforts but simply emerge through processes of converging expectations. A small coalition of powerful actors or just one single powerful actor can also succeed in imposing their institutional preferences on others. These actors can also be interpreted as the important prime movers (Levy et al. 1995: 281-282). In this theoretical framework mainly the importance of negotiation but also aspects of power are considered.

It is helpful to distinguish the process of regime formation into different stages, which are at least analytically sequenced: agenda formation => institutional choice => operationalization. Or according to Young (1994): prenegotiation => negotiation => postnegotiation. Even though the driving social forces of actors engaged in regime formation are identified as power, knowledge and interest some cross-cutting factors have to be taken into consideration: individual leadership[21] and context (Levy et al. 1995). The latter point has to be underlined. Regime building is taking place in the environment of mainly institutionalized international relations and not in an anarchic environment (Kohler-Koch 1989).

In the following, three approaches that contribute to an explanation concerning the questions of regime formation and design or form will be explicated. This begins with Zürn's (1992) situation-structural approach that has is virtues especially at the demand-side of international regimes focusing on the probability that regimes emerge in distinct situations. Since critics remark that the approach is less explicit concerning the supply-side, how this demand is finally met (Hasenclever et al. 1997b: 56) additional theoretical support is needed. Young's (1994) model of institutional bargaining does not only focus on situations in which negotiations aimed at the creation of international regimes do regularly take place, he also identifies factors that are regarded as being necessary for a success of these negotiations. Following scholars working in a realist tradition focusing on issues of power it is also important to look at the distribution of power among the actors' involved, and its consequences. This task is performed in the third part of the discussion of regime theoretical approaches.

[21] "In virtually every case of successful regime formation, one or more key individuals have provided leadership at crucial turning points" (Levy et al. 1995: 285). For a differentiation into three types of leadership in the process of regime formation see: (Young 1999, 1991).

6.4.1 Situation-structural approach

The situation-structural approach (Zürn 1992) an interest-based regime-theoretical approach (Hasenclever et al. 1997b) addresses the main questions posed in this research project. Thereby the different forms of institutions in the international politics are treated as the dependent variable. This form can vary along a continuum, regarding it's grade of legal formalization (Zürn 1992: 150).

Figure 1: Continuum - Grade of legal formalization

Conflict, defined as a situation in which two or more actors strive for different contradicting goals or a situation in which two or more actors strive for a common goal but want to choose different means to (Zürn 1992: 139), is the starting point. The actors involved act goal-oriented but on the basis of a bounded rationality (Elster 1983; Simon 1985). Here the assumption of hyper-rationality has to be avoided[22]. Actors do not follow simply neither a logic of consequentiality nor a pure logic of appropriateness (March/Olsen 1989, 1998: 952). A combination of both of these logics seems necessary for useful empirical research. Situation-structuralists assume that regimes help to facilitate international cooperation and are therefore created by rational actors to avoid Pareto-inefficient[23] outcomes. The probability of emergence of institutions and the question of degree of formalization of institutions is traced back in the situation-structural approach to the structure of the situation in which they were created, and formed to hypotheses that use game-theoretic language and reasoning. In the following the approach's two main hypotheses that are of interest concerning the research questions will be stated:

[22] In many respects this resembles insights from Scharpf's (1997: 19ff.) actor-centered institutionalism.
[23] The term Pareto-efficiency or optimality is widely-used in game theory, and labels the condition of a game in which no player can improve its condition without making another one worse off (Zürn 1992). Pareto-inefficient outcomes are therefore outcomes where possibilities of improvement (for at least one player) exist, without making any other player worse off.

a) The probability for the emergence of normative international institutions is dependent on the structure of the situation: 1 it is highest in situations that's structure resemble coordination games without distributional conflict, 2 second highest in coordination games with distributional conflict, 3 second lowest in dilemma-games, 4 lowest in Rambo-games.
b) The nature of normative institutions depends on the structure of the situation in which they were created: The degree of formalization increases from 1 to 3. It is lowest in Coordination games without distributional conflict, and highest in dilemma-games. Rambo-games lie between (Zürn 1992: 164f.).

It follows that the creation of a regime is more likely the less demanding the problem that should be coordinated is[24] (Hasenclever et al. 1997b: 53). Zürn does also add a set of secondary variables[25] to refine his regime formation hypotheses that are based on the four types of problematic social situations (Zürn 1992: 164).

Following this approach the situation in which the Bologna Process started does play a crucial role. If this situation can be modeled as a coordination game with very low or even without distributional conflict, the situation-structural approach would assume that the probability that an institution emerges is high. As a consequence the degree of formalization would be assumed to be low (as it actually is).

6.4.2 Institutional bargaining

Oran Young's (1994; 1991) model of regime formation focuses on the bargaining process among self-interested actors "seeking to reap joint gains by devising institutional arrangements to avoid or overcome collective-action problems" (Young 1994: 98f.). The group of actors involved in the bargaining process, that is operating on the basis of a consensus rule mainly consists of states. Nonetheless other actors like transnational alliances among influential interest groups may also play a role (Young

[24] This "amounts to arguing that regimes are the more likely the *less* they are needed. This relationship, if normatively undesirable, may have considerable analytical plausibility. The point is, though that *demand* can only be part of the story of regime formation" (Hasenclever et al. 1997b).
[25] These variables make reference to arguments stemming from various strands of regime theory (Hasenclever et al. 1997b) . Zürn himself calls his choice of variables (frequency of interaction, density of transactions, type of foreign policy, distribution of issue-specific resources, presence/absence of salient solutions, number of actors in the issue-area, overall relationship of the actors(Hasenclever et al. 1997b)) in some respects arbitrary (Zürn 1992).

1994: 103-105). It is important to stress the point that even before the bargaining takes place important decisions concerning the involvement and exclusion of parties are taken. Contrary to a majoritarian rule the consensus rule makes it necessary that those parties are excluded that are assumed to be against any reasonable institutional arrangement or that threaten to ignore opposition of one or more other actors and to go on with their own arrangement. Once membership in this bargaining club is fixed, the search for solutions all actors involved can accept begins (Young 1994: 99-100). What contributes to the success of the bargaining process is the fact that regime formation normally involves integrative in contrast to distributive bargaining under a veil of uncertainty (Young 1991: 283). This veil of uncertainty[26] illustrates the fact that institutional arrangements "typically apply across a wide range of contexts and over a more or less expended period of time" (Young 1994: 101), which creates uncertainty among the negotiators. This uncertainty makes it "difficult for individuals to predict how specific institutional arrangements will affect their interests over time" (Young 1991: 283) and therefore "actually facilitates efforts to reach agreement on the substantive provisions of institutional arrangements" (Young 1994: 102). Hence actors do seldom try to perfect their information about all possible outcomes and the dimensions of contract zones prior to the serious bargaining, but focus instead on the key problems and try to work out broadly acceptable approaches. Differences among these approaches are sought to be brought into accordance in the course of the negotiations. Nonetheless this does not mean that the actors involved can always reconcile divergent approaches (Young 1994: 102-103).

Obstacles to successful regime formation can be identified in the unanimity rule itself that may be exploited by ambitious actors, diverging preferences among the negotiators concerning the composition of the group of participants and the contents. The fact that at the international level all parties involved in the bargaining process are collective or corporate entities (e.g. states of international organizations) may give rise to problems depicted in the logic of two level games (see chapter 6.4). To overcome the obstacles mentioned above the process of institutional bargaining needs an additional element, namely leadership (Young 1991: 284-285). In the following the main hypotheses of the institutional bargaining approach that deal with the success and failure of institutional

[26] Not to be confused with John Rawl's (Rawls 1993) "veil of ignorance" where the actors do not know their roles in society.

bargaining are stated and discussed. As Hasenclever and collaborators put it (1997b: 74): "The model of institutional bargaining has both a descriptive and an analytical aspect. Descriptively, it seeks to outline the essential circumstances under which collective efforts to form regimes *regularly* take place. Analytically, it points to a number of factors that are critical for the *success* of such efforts". Therefore the six main hypotheses can be divided according to these two aspects:

a) "Institutional bargaining can succeed only when the issues at stake lend themselves to treatment in a contractarian mode"(Young 1994: 107).
b) "Exogenous shocks or crises increase the probability of success in efforts to negotiate the terms of governance systems" (Young 1994: 112).

These two hypotheses refer to conditions that are external or prior to the negotiations. The first hypothesis mainly restates the main ideas of the model and incorporates them. The contractual environment has to take a form in which the zone of agreement is blurred and the future distribution of benefits is veiled (Hasenclever et al. 1997b: 74f.; Young 1994: 107f.). The second hypothesis emphasizes the role of factors such as shocks or crises exogenous to the bargaining process, in breaking logjams[27], and helping the parties involved in the bargaining to refocus on the common interest (Hasenclever et al. 1997a: 75).

c) "The availability of arrangements that all participants can accept as equitable is necessary for institutional bargaining to succeed"(Young 1994: 109).
d) "The identification of salient solutions (or focal points) describable in simple terms increases the probability of success in institutional bargaining"(Young 1994: 110).

[27] It should not come as a big surprise that, Oran Young as a specialist in international governance and environmental institutions actively engaged in various organizations, and committees dedicated to the protection of the environment has especially shocks and crisis in this policy field in mind. As examples for such shocks he mentions the discovery of the ozone hole over Antarctica in 1995, or the Chernobyl accident in 1986 (Young 1994). Nonetheless relevant shocks in other policy fields could be also imagined (e.g. the September 11, 2001 terrorist attacks on the World Trade Center).

e) "The probability of success in institutional bargaining rises when clear-cut and reliable compliance mechanisms are available"(Young 1994: 111).
f) "Institutional bargaining cannot succeed in the absence of effective entrepreneurial leadership on the part of the individuals" (Young 1994: 114).

These four hypotheses take the factors that are necessary for integrative bargaining to take place for granted, and focus instead on factors that are identified to be crucial for the successful completion of the bargaining. Whilst it is evident that the unanimity rule makes it necessary to find arrangements that all parties involved can accept, it is not so clear what constitutes a "equitable" solution or a "salient" solution, that's existence may increase the probability for success but is nonetheless not a necessary condition. The third hypothesis – that stresses the importance of clear-cut and reliable compliance mechanisms as factors increasing the probability of successful bargaining – points to a well known issue in the study of collective-action problems. The less the actors involved fear that other actors cheat on them, the more likely they agree on the common institutional arrangement (Hasenclever et al. 1997b: 76).

Whereas the hypotheses mentioned above either encompass factors just being supportive for successful bargaining or as discussed not fully clear, the last hypothesis states a very clear necessary condition for successful regime building: "It is no exaggeration to say that efforts to negotiate the terms of international regimes are apt to succeed when one or more individuals emerge as effective leaders and that in the absence of such leadership, they will fail" (Young 1994: 114). Without the aim of "diminishing the role of collective entities, such as states, international organizations, nongovernmental organizations, and multinational corporations" the "individual" (Young 1991: 282) is brought back in the discussion. Leadership therefore means actions taken by individuals with the aim to contribute to successful institutional bargaining. It is important to keep in mind that one has to be very careful in determining who did provide leadership in the process of regime formation, already knowing the outcome of the institutional bargaining. Since the action of one or the other actor involved in this process or the fact that he/she did play a role is not necessarily a prove of leadership. So, a conception of leadership with a focus on specific forms of behavior

that can also be identified without making reference to the outcomes of the whole process is necessary (Young 1991: 286). It is possible to – analytically – distinguish between different types of leadership, namely structural leadership, entrepreneurial leadership and intellectual leadership[28]. Interestingly this model does only incorporate the entrepreneurial leader, leaving aside the two other types of leadership. Entrepreneurial leaders are neither representatives of major states or hegemons nor are they just ethically motivated actors. Instead entrepreneurial leaders are actors that have the skill to invent new institutional arrangements and to broker the overlapping interests of the parties involved in this issue area. Entrepreneurial leaders play their "catalytic role" (Hasenclever et al. 1997b: 76), especially when the danger of logjam has to be avoided. It is their negotiation skill and ingenuity not their power that makes entrepreneurial leaders that important. Entrepreneurial leaders also function as agenda setters that shape the form in which issues are presented at the international level. They actively try to draw the attention to the importance of the distinct issues. It is also important to recall that entrepreneurial leaders are not independent mediators but agents of actors with specific interests in the issues at hand (Young 1991: 293f.). They are gain-seeking (material rewards, enhanced reputation) themselves, too (Young 1994).

Following the insights stemming from the institutional bargaining approach it is especially important to search and identify the entrepreneurial leader(s) in the formation of the Bologna-Regime. Concerning the question of the specific form an institutional arrangement takes this approach does not contribute too much.

6.4.3 Power-distributionalist perspectives

The neoliberal view that political institutions are means of cooperative action due to collective action problems is not fully shared by theorists of other theoretical schools. Political institutions can not only regarded as being just structures of cooperation but also as structures of power (Gruber 2000; Moe 2005). Especially scholars working in a

[28] "The structural leader translates power resources into bargaining leverage in an effort to bring pressure to bear on others to assent to the terms of proposed constitutional contracts. The entrepreneurial leader makes use of negotiation skill to frame the issues at stake, devise mutually acceptable formulas, and broker the interests of key players in building support for these formulas. the intellectual leader, by contrast, relies on the power of ideas to shape the thinking of the principals in processes of institutional bargaining" (Young 1991).

realist tradition[29] focusing on the distribution of power disagree with some assumptions of the neoliberal model. Notwithstanding they do not completely dismiss the neoliberal model to present their own fully worked-out model but focus on some distinct points of criticism: While realists agree to the main claim of neoliberals that cheating is one important obstacle to cooperation among rational acting states, they do not regard cheating as the only barrier to international cooperation. Scholars working in the realist tradition do also not deny that states try to maximize their absolute gains but they stress the point that states also worry about relative achievements of gains (Grieco 1988a: 487). This can be traced back to different understandings between these theories concerning the anarchic international environment[30]. Therefore from a realist viewpoint the concern of states is not so much the maximizing of power but the maintaining of their position[31] in the system (Waltz 1979). The "major goal of states in any relationship is not to attain the highest possible individual gain or payoff. *Instead, the fundamental goal of states in any relationship is to prevent others from achieving advances in their relative capabilities*" (Grieco 1988a: 498). The relative-gains problem for cooperation may lead to situations in which a state refuses to cooperate even if it is sure that the other actors involved will keep their commitments to the joint arrangement. States might even leave out opportunities to increase their absolute capabilities if this strongly contributes to stabilize the distribution of power (Grieco 1988b: 602).

The utility function for a state therefore changes from $U = V$ to $U = V – k (W – V)$ [$k > 0$]. U is the state's utility, V is the state's absolute gains, W is it's partner's absolute gains and k is the coefficient capturing the state's sensitivity to differences in pay-offs (Grieco 1988a; Hasenclever et al. 1997b). As one can easily observe one crucial variable in this formula is the value k takes. The smaller k is, the smaller are the

[29] It is noteworthy that realists that are engaged in the discussion about international institutions and regimes are not disciples of "orthodox realist interpretations of international politics as a state of war which militates against any significant role for international institutions" (Hasenclever et al. 1997b). In this thesis the view that "institutions are basically a reflection of the distribution of power in the world […] They are based on the self-interested calculations of the great powers, and they have no independent effect on state behavior" (Mearsheimer 1994/95: 7) is not shared. Institutions are not only created and shaped by the most powerful states in the system to "maintain their share of world power, or even increase it" as some neorealists assume (Mearsheimer 1994/95: 13).

[30] For realists international anarchy means that "no agency exists in the international polity to which states can appeal for protection or the enforcement of promises" (Grieco 1988b). So matters of security do also play a role and not only the fear of being cheated.

[31] Interestingly realists observe this "deep-rooted tendency in states to assess their level of achievement by comparison of their own individual performance to the performance of other states" not only in domains of activity like "military power" but also "educational excellence" (Grieco 1988b: 602).

differences between this realist formula and the neoliberal U=V formula. There exist several contextual variables that determine the value of k. The nature of the issue (e.g. security, economic), past and present relationship between the states (allies or foes), the existence of a common opponent[32] and the size of the power difference (Hasenclever et al. 1997b: 119)

Uncertainty plays an important role in this view, too. Since states are uncertain about the future intentions of other states, they look very carefully at the possible consequences cooperation might entail in the future concerning relative capabilities. "If two states are worried or uncertain about relative achievements of gains, then each will prefer a less durable cooperative arrangement, for each would want to be more readily able to exit from the arrangement if gaps in gains did come to favor the other" (Grieco 1988a: 506)

As can be seen power is regarded not as a facilitator or catalyst of cooperation but primarily as a means to influence the distribution of benefits. Therefore the analysis has to focus on actor's interests and relative capabilities too. Because it is not only the monitoring capacity but also power and interests that determine outcomes (Krasner 1991: 362-365). According to Krasner (1991) it is clear that in some cases international regimes are beneficial for all parties involved and without the existence of these regimes all actors would have been worse off, but nonetheless there exist many points along the Pareto frontier[33]. Which one is chosen (which institutional arrangement), can be explained by focusing on the distribution of national power capabilities. Here state power is exercised (at least) in three different ways (Krasner 1991: 340):

1. "Power may be used to determine who can play the game in the first place. In international relations less powerful actors are often never invited to the table".
2. "Power may also be used to dictated rules of the game, for instance who gets to move first. In [Battle of the Sexes[34]] the player who moves first can dictate the

[32] Concerning the number of participants of a cooperative attempt, it is debated if relative-gain seeking does still pose an obstacle to cooperation if large numbers of actors are involved (Grieco 1993; Snidal 1991).
[33] The game theoretical concept pareto frontier means the set of possible outcomes that are pareto optimal.
[34] "Archetypical" mixed-motive game in which "the preferences of the players are partly harmonious and partly in conflict" (Scharpf 1997). Zürn (Zürn 1992) classifies Battle of the Sexes as a coordination game

outcome, provided that the other player is convinced that the first player's strategy is irrevocable".

3. "Power may be used to change the payoff matrix. For instance, a more powerful row player might use tactical linkage to change, or credibly threaten to change the payoff matrix"[35].

Following these assumptions, in contrast to neoliberal argumentation already the constellation of actors is a crucial starting point, that has to be taken into consideration, since not every actor may be allowed to participate. Contrary to Young's approach (see: chapter 6.4.2) this does not only apply to actor's that are unwilling to support any reasonable solution. In Krasner's view power is primarily used to determine the distribution of gains from cooperation. Powerful actors have more influence concerning which point on the Pareto frontier is chosen. Nonetheless there are no losers, all cooperating members are made better off in this process (Moe 2005: 225).

This view is challenged by Lloyd Gruber (Gruber 2000) who argues that under the cover of voluntary cooperation the exercise of power is often hidden. Here power is not only employed to decide which point on the Pareto frontier is taken[36]. It seems strange but states do sometimes even join international institutions when they expect to be worse off in the following (Moe 2005). Institutions are not just means to overcome coordination problems that cannot be handled alone, providing joint gains. In this view not every actor is better off in the end, there are no mutual benefits for all parties involved. The starting point for this notion is, that some states are that important in a distinct area, that they can decide to "go it alone", in creating an institution. This "go it alone power" (Gruber 2000) allows one or a few states to limit the range of options for weaker states. These other states then may decide to join this institution, even if they never wanted it in the first place and even if they expect to be worse off compared to the original status quo (Moe 2005). It is easily observable that this is the crucial point of the

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with distributional conflict. In "Battle" a couple wants to spend the evening together. She wants to go to a soccer game, he prefers going to the opera. As can be easily noted there exist two Pareto-optimal outcomes, for which one of them has to give in.

[35] This means that actors with more abundant resources could tactically link issues to manipulate the other's preference ordering the way, that the game is changed into one where there is only one Pareto-efficient equilibrium solution left: Which is the one that is preferred by the more powerful actor (Hasenclever et al. 1997b).

[36] The graphic visualizations that can be found in (Gruber 2000), page 35-39 very well illustrate this argument.

approach. The prime movers, when cooperating and forming an institution alter the status quo.

Weaker states cannot go back the way things were. They may decide to join, or not. Interestingly they will sometimes even plead to be admitted into the cooperative institution, whose members may not even want them to join (Gruber 2001: 708, 2000: 7). Agenda control is the kind of power Gruber is talking about. "The outsiders cannot go back to the way things were. They must now choose from the power-constrained choice set and from that alone. They may (and probably will) choose to "cooperate." But they may also be worse off than before the institutions were imposed" (Moe 2005: 227). Centrally in this approach are the prime movers, the so-called "enactors" (Gruber 2000), who engage first in the building of the new regime. Their ex ante power positions are regarded as being the strongest. This is either due to their ability to unilateral action (in Gruber's words their "go it alone power"), or due to the fact that the non-cooperative status quo is not as bad for them as for the other actors. When the emergence and the concrete form of international institutions should be explained, it is according to Gruber the first step to inquire "the strategic calculations and incentives of these more powerful participants, the ones who wield the greatest bargaining and/or go-it-alone power at the outset" (Gruber 2005: 127). Hence in this view international regimes are designed by a small subset – the most powerful – of the founding members.

It is important to note that there is nonetheless not necessarily a contradiction between the exercise of power and mutual gain (Moe 2005: 228). Although the "enactors" are the crucial actors in the process of forming and designing an international institution, it is not necessarily the case that the following actors that join the cooperative arrangement later have to be worse off then before. It might be the case, but it does not always have to be.

As can be observed scholars focusing on issues of power and the distribution of power do on the one hand not represent a coherent group, on the other hand they do not fully neglect the neoliberal view on international institutions. Instead they enrich the discussion by pointing to aspects too easily overseen by neoliberals. Concerning the question of development and form of the Bologna-Regime it is according to both Krasner (1991) and Gruber (2000) important to focus on the prime actors, their interests

and power. Following their approaches power means especially agenda control. The analysis of the Bologna-Regime should therefore also try to identify such prime movers, their preferences and power. In the next chapters questions of institutional form are discussed from distinct perspectives, widening the debate and adding theoretical substance.

6.5 Explaining institutional form or design

In international relations there exist multiple ways to solve a common cooperation problem. Only one solution among others is the creation of new institution like international regimes. The form these institutions take also varies in multiple ways. The second research question of this dissertation points in this direction: How can the form or design of this institution be explained? Additionally the question concerning reasons for this institutions softness is raised.

Since it is assumed that institutions are responses to certain cooperation problems given by boundly rational actors it is important to consider the ex ante institutional strategies available to these actors. At this point it is very useful to keep in mind that the "anarchic" characteristic of the international system should not be overemphasized. Cooperation takes place in the environment of mainly institutionalized international relations and not in a purely anarchic environment (Kohler-Koch 1989). "Few cooperation problems arise within an institutional "vacuum"" (Jupille/Snidal 2006: 10). Following a recent paper of Jupille and Snidal (2006) that incorporates the institutional status quo[37] in the analysis, the creation of new institutions is in principle not as likely as one may assume. Following the process of institutional choice as depicted in Figure 2, the use of focal institutions[38], the selection among alternative institutions and the changing of already existing institutions are available on the menu of international actors too[39]. Due to increasing decision costs and increasing risk and uncertainty when moving down the decision tree as depicted in Figure 2, a general status quo bias favoring existing institutional arrangements can be noticed (Jupille/Snidal 2006: 24).

[37] Defined as: " the set of pre-existing institutions potentially relevant to an emergent cooperation problem" (Jupille/Snidal 2006).
[38] Focal institutions are defined as being institutions that are widely accepted as the "natural" fora for dealing with a particular cooperation problem (Jupille/Snidal 2006)
[39] Here in this context, institutional choice is defined as the "collective choice over institutions – not individual actor strategies over institutions but their aggregate outcome" (Jupille/Snidal 2006).

Only when "substantial gaps in the international status quo" (Jupille/Snidal 2006: 33) exist, new institutions are likely to be created. These gaps encompass absence of institutions in the given issue area, either concerning the set of actors or the issue. Hence membership and scope are centrally important in this concept[40]. Interestingly also the nature of the cooperation problem, consisting of a range of factors, is included in this model.

Although this concept does not help to answer the question how the form or design of a new institution can be explained, it nonetheless contributes in two aspects. On the one hand the attention is directed towards the fact that the creation of new institutions follows a long process of decision and exclusion. It stands at the endpoint of this decision chain, not at the beginning. On the other hand the research question 2a – why this cooperation does take place outside the European Union, can be modeled as a case of an unsatisfactory focal institution. The conjecture or hypothesis following this model can therefore be stated as follows:

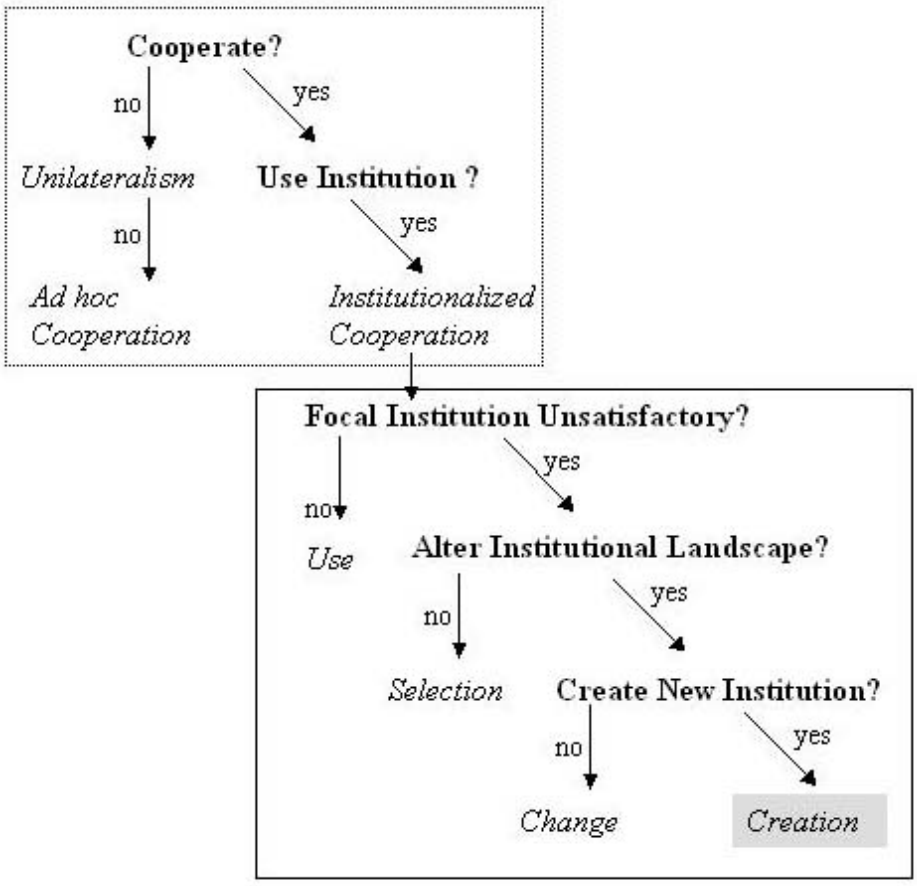
Lack of congruence concerning membership between the EU and the group of actors engaged in the cooperative initiative aiming to coordinate the higher education systems, leads to the dismissal of the EU as the appropriate institutional solution.

Also considerations of power are built into this approach. When powerful actors, especially those with go-it-alone power (Gruber 2000), have alternative institutional preferences the (focal) institution will not be selected (Jupille/Snidal 2006: 27). This leads to the following hypothesis:

When powerful actors have alternative institutional preferences the EU will not be selected as the appropriate institutional solution.

[40] Are all actors members of the institution in question to be used? Does the mandate of the institution in question encompass the issue being addressed?

Figure 2: Institutional choice process



Source: (Jupille/Snidal 2006: 4, 14)

Coming back to the main question concerning the form or design institutions take, it is important to consider that institutions may vary among multiple dimensions. For their rational design project Koremenos and collaborators (Koremenos et al. 2001b, a), developed five key dimensions (membership rules, scope of issues covered, centralization of tasks, rules for controlling the institution, flexibility of arrangements). Without missing their point concerning the problems of just using a single measure for describing institutions (Koremenos et al. 2001a: 769) it does not seem useful to apply their approach encompassing five dimensions and the corresponding conjectures to the case this dissertation is employed with. The dimension of interest is already specified in the research question. Primarily the choice of soft coordinated institutions stands in the center of the analysis. Since "softness" does not depict a clear cut dimension and since the whole concept of soft law is not uncontested, as already noted elsewhere (see:

chapter 2) some additional clarifications still have to be made. Contrary to approaches focusing just on the aspect of legality and therefore assuming just a binary nature of legal obligations[41] (Raustiala 2005: 586), I prefer to assume a continuum instead of a dichotomy (see: Figure 1). Following Abbot and Snidal (2000: 422) "the realm of "soft law" begins once legal arrangements that are weakened along one or more of the dimensions of obligation, precision, and delegation". Abbot and Snidal apply a functional approach, treating the specific form of soft law as actor's attempt to solve a particular problem (Abbott/Snidal 2000: 423), nonetheless they also involve strategic considerations of rational actors in their discussion of why soft forms are chosen. In the following their main claims and hypotheses will be stated in short.

Soft legalization has many advantages, like lower contracting and sovereignty costs. Concerning the differing sovereignty costs in different policy fields it is likely that states choose different forms of legalization in different issue areas (Abbott/Snidal 2000: 440)[42]. Additionally it is possible to regard soft law as a prior step to hard legalization. States may learn about the consequences of an agreement and in the following choose to commit themselves in a more binding way[43]. Notwithstanding not every soft law agreement leads inevitable to harder forms of legalization. Another virtue of soft law is its ability to deal with uncertainty. Abbot and Snidal (2000: 444) therefore hypothesize that when uncertainty and sovereignty costs[44] are high states prefer softer forms of legalization. Soft law may also be employed to overcome bargaining problems by forming agreements that have general goals that are less precise and have limited

[41] In fact for Raustiala "there is no such thing as "soft law." The concept of soft law purports to identify something between binding law and no law. Yet as an analytic or practical matter no meaningful intermediate category exists" (Raustiala 2005). In his conception there exists only a dichotomy between a contract and a pledge.

[42] It should nonetheless be mentioned that the distinction between policy fields where stakes concerning national sovereignty are high and those where they are not is – maybe with the exception of national security - not a clear cut one. Following Hoffman's (1995) division into high and low politics, whereas high politics represent areas that touch national sovereignty and national identity this can be exemplarily noted with regards to the education policy field. Some scholars treat education policy as a matter of high politics (Cini 2003: 98), whereas others regard it as belonging to low politics (Borchard 2003: 196).

[43] In his "ratchet fusion" model of integration Wolfgang Wessels for example also treats softer non-binding forms of interaction like the OMC as a preliminary step of a evolutionary integration process (Wessels 1997; Wessels/Linsenmann 2002).

[44] "Souvereignty costs" are used in this context as a "covering term" for all "categories of costs to emphasize the high stakes states often face in accepting international agreements" (Abbott/Snidal 2000). Abbot and Snidal here follow the categorization of Krasner (Krasner 1999) encompassing "*domestic* sovereignty (the organization of authority and control within the state), *interdependence* sovereignty (the ability to control flows across borders), international *legal* sovereignty (establishing the status of a political entity in the international system), and *Westphalian* sovereignty (preventing external actors from influencing or determining domestic authority structures) (Abbott/Snidal 2000).

delegation. This creates flexibility in implementation that helps states to deal with domestic consequences of an agreement, political and economic ones (Abbott/Snidal 2000: 445). The point that soft law may be useful to overcome bargaining problems has also been taken up by a recent approach. Nonetheless this approach does no more focus on common coordination problems. The next chapter gives an overview of this approach.

6.6 Soft Coordination: Substituting content with procedure

The most recent attempt to explain the development of soft coordination (in the field of economic policy) treats soft law as a means to overcome impossibilities of substantive agreements and to avoid deadlock (Schäfer 2005). In this view soft coordination is not employed as one possible answer to the question of how to reach common goals but as a means to overcome divergent and even conflicting views concerning the substance (Schäfer 2006b: 200). Soft coordination also has to be regarded as a means which is used when some goals should be brought onto the European agenda without concrete content. Content is substituted with voluntaristic procedures (Schäfer 2005: 223f.). Nonetheless one should not fall into the trap of assuming that thereby cooperation is regarded as a means in itself. The possibility of deciding even with no substantial agreement regarding the content, and the possibility to prevent failures of negotiations is one means to increase the room of maneuver for governments (Schäfer 2005: 48), to play two-level games, for example[45].

In my dissertation project questions of the consequences and effectiveness of soft coordination will not be analyzed[46]. Nonetheless it should be mentioned that non-bindingness and softness of instructions do not automatically imply that they have no consequences or are ineffective at all (Streeck 1996: 82). Hereby it is important to note that there is a big difference between the use of soft law inside a nation state and its use in the international system. Inside the nation state these soft modes are applied in the

[45] One could also add more than just two-levels, since this two-level game picture is not always enough – other levels like subnational entities, agencies can also be included (Wallace et al. 2005: 7).

[46] On the one hand due to the fact that the Bologna Process is not an ideal case for already examining the consequences yet, since the establishment of the European area of higher education is pronounced for the year 2010. On the other hand a solid analysis of the implementation of the Bologna objectives that does not base it's conclusions only on the data stemming from the official stocktaking – that is not unproblematic in this context (see: chapter 10.4) – would be enormously time-consuming and costly.

shadow of hierarchy and all the actors involved know this fact, which may enhance the effectiveness. In the international system the possibility of sanctions is far fewer, nonetheless some exist. Amazingly, when it comes to the implementation of political programs and decisions, the difference is not as big as may be assumed (Jachtenfuchs 2003: 506f.). Furthermore there is some evidence that, measures stemming from the international level, as soft as these may be, can help to stimulate reform at the national level and to overcome domestic resistance (Héritier 2002: 9f.). Other scholars do not share this optimistic few but regard the expectations about the effectiveness of soft forms of cooperation stemming from EU research as unrealistic (Schäfer 2005: 17). A more fundamental critique focuses on the difficulties to detect causal relations between governance processes and outcomes. (Trubek et al. 2005: 23). One remark has to be made in this discussion. It is quite obvious that soft coordination can entail consequences at the domestic level and does not necessarily exhibit solely a "fair weather instrument" (Schäfer 2005: 223), but its voluntaristic character and the widened opportunity space for national governments nonetheless remains.

One important point has to be stated concerning this approach. Schäfer (2005) developed his hypothesis that content is substituted with procedure in the context of the EU's economic policy and the Open Method of Coordination. Therefore it is highly interesting if this hypothesis is also applicable in other policy fields. If this is not the case in another policy field this is no final prove that the hypothesis is wrong but that its application to another case has failed.

6.7 Timing, path dependences and unintended consequences

When analyzing institutions it is important to also incorporate the temporal dimension. Since it is not the case that regimes are designed[47] one certain point in time to resist in this specific form forever, but instead they change or disappear. Especially scholars working in the historical institutionalist tradition direct their attention towards this view. In this thesis the starting point is the claim that every institution in a certain policy field can be situated at a specific point on a continuum that captures the grade of legal

[47] Be it to best fulfill the task of increasing cooperative gains, or just reflecting the preferences of powerful founding members.

formalization (see Figure 1), and the fact that institutions develop over time and are neither static nor plastic and fully under control of the founding members.

So, bringing time back in allows us to overcome a static snapshot view as criticized by Pierson (2004). Whereas move from the left to the right on this continuum over time is likely to occur, a move from the right to the left is not likely to occur due to path dependences and stickiness of institutions[48] (Pierson 2004). The actors deciding and bargaining about which institutional form to choose know about long-term effects and about possible unintended consequences. They are able to learn, and to recall past experiences. Regarding the continuum picture, actors when deciding upon the form of an institutions know that move from the right to the left is more difficult to achieve than move from the left to the right. So, this means that once institutions are installed in a more binding form, a switch-back to softer, less binding forms are very difficult to reach. The two figures below visualize the possibility of movement. In Figure 3 movement, regarding the form of legal formalization of an institution from point T1 to point T2, is possible (but not necessarily likely) to occur. In contrast Figure 4 shows that this is not the case, when the movement takes place in the other direction.

Figure 3: Likely movement over time

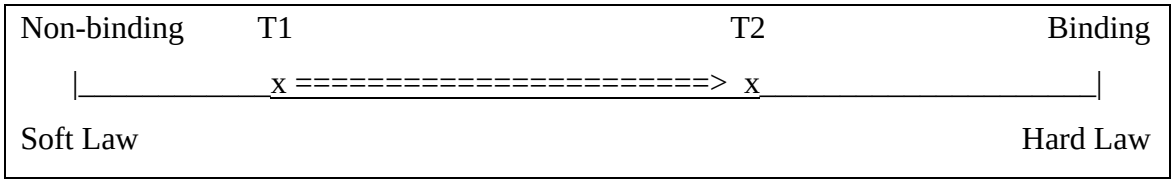
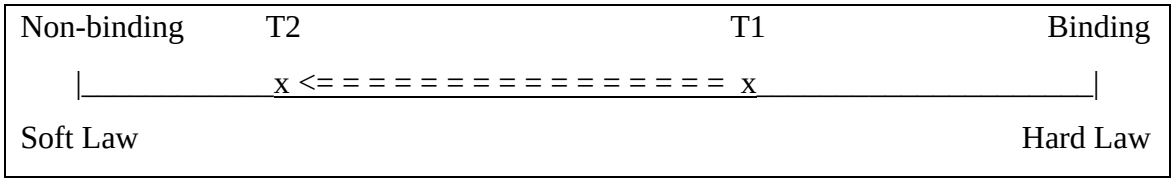


Figure 4: Unlikely movement over time



In the following the two theoretical concepts mentioned above, path dependences and unintended consequences will be explained a little further.

[48] Pierson is not the first scholar occupied with this issue. See for example (Krasner 1988). Nonetheless his book from 2004 constitutes a very thick and focused analysis occupied with matters of temporality.

Path dependences:

The concept of path dependence is not an entirely new one. Nonetheless it is often depicted in the literature in a shortened or even misleading way. The basic idea that time does play a role and that institutions are not created overnight to stay static, but develop and get more institutionalized is well known for some time (Huntington 1969: 14ff.). Nonetheless a useful application of the concept of path dependence demands more than just vague notions that history matters and that past choices influence future processes. Additionally it is important to be aware of the fact, that path dependence does not necessarily mean the same in politics as in economics. Especially increasing returns arguments cannot be transferred wholly unchanged from one sphere to the other (Pierson 2004, 2000a). In its core a path dependent process can be described as a dynamic process that enfolds over time, and in turn leads to irreversibilities. It is important to keep in mind that, this does not mean that institutions get unchangeable. But change may become difficult. In the following three important features of path dependent sequences will be stated.

- Timing plays an important role in path dependent processes. It is of big importance to consider at which point in time an event takes place. Normally earlier events are regarded as being more important than the later parts. Hence the order of events is an important factor that should not be overlooked.
- The final outcome of a path dependent sequence cannot be explained with initial conditions or prior events. In the beginning a choice between different paths is possible.[49]
- Once a process is set into motion and begins to follow a certain track and produces a certain outcome, a path dependent process will stay in motion and continue to follow this track and continue to produce the certain outcome (Mahoney 2000).

When looking at potentially path-dependent processes it makes sense to distinguish between two types of sequences: Self-reinforcing sequences and

[49] The Polya urn experiment is a good example to visualize this point (Pierson 2004).

reactive sequences. Self-reinforcing sequences are processes in which a given institutional pattern is formed and reproduced in the long-term. Once adopted this pattern becomes more and more difficult to transform, or to select an alternative option. Reactive sequences are chains of causally connected events that are temporally ordered. Every single event in this chain is partially a reaction to prior events. So every step in this chain depends on prior steps (Mahoney 2000). To be clear, when arguing with path-dependence it is important not only to give a description but to identify the mechanisms at work that reinforce a particular path. A mere description of stability is not regarded as being enough (Pierson 2004: 49).

Unintended consequences

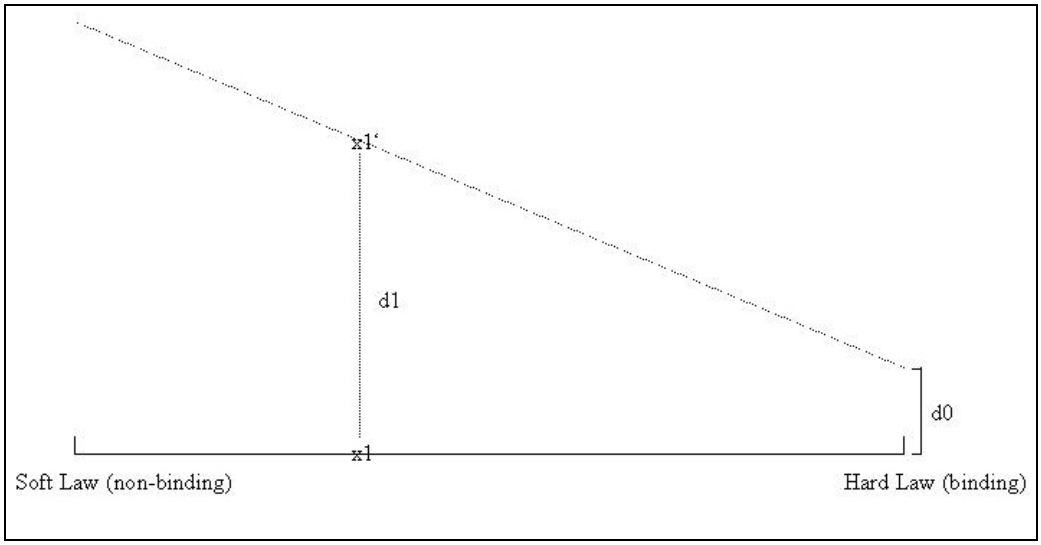
Not only can the structure of the bargaining situation be employed for an explanation of why soft coordination is employed. Under the assumption of rational actors that are able to learn, the effects of previous decisions influence future decision. In this case whether to choose the same institutional form or not. Actors learn to avoid unintended consequences (Schäfer 2005: 34). There exists a bunch of literature dealing with this not entirely new concept. In its core it can be summed up that "Things don’t always turn out as we expect them to. Many events occur unintentionally" (Elster 1989: 91). Due to incomplete information, actors cannot always predict the effects of their actions. Agency losses, unequal distributional benefits but also changes of preferences may occur (Elster 1989; Menon 2003; Pierson 1996) Therefore actors learning from past experiences may decide trying to avoid these unintended consequences. In the case of institutional building, governments may not be willing to pool or delegate sovereignty to supranational institutions due to past experiences (Schäfer 2004, 2005: 34). To avoid these unintended consequences other forms of coordination – e.g. soft forms – may be chosen. Nonetheless it has to be noted that these soft policy instruments also entail their specific unintended consequences. Actors choose soft policy instruments to be able to determine the level of policy adjustment they want to undertake. European guidelines may help to justify unpopular actions but they can also be ignored. In the EU context the "OECD-technique" (Wallace 2005a) can be regarded as a means of protection against the agenda-stretching Commission and the jurisdiction of the European Court of

> Justice. The increasing choice of soft law in the EU in the last years can be understood as a reaction to former experiences with the classic Community method. Governments try to prevent unintended consequences (Schäfer 2005: 228). In this view it is not the expected benefits that are primarily considered, but the possible losses, which are regarded as being minor when using soft coordination instruments.

Following the insights stated above it becomes clear that intentional design of institutions, undertaken by intentional designers is partly a myth. Institutions sometimes develop accidentally, or develop following a logic not intended by their founding fathers. Nonetheless, "even where direct design is impossible, however, indirect design is often nonetheless feasible. Accidents happen but, the frequency and direction of accidents can be significantly shaped by intentional interventions" (Goodin 1996: 29). This is also the direction in which the main argument of this chapter is aiming at.

One point still remains to be clarified a little further: Why should states (or governments) in effect try to avoid more formalized, harder forms of coordination? As can be seen in Figure 5, the room for maneuver for the individual states differs according to the degree of formalization of an international institution. The more formalized an institution is, and the more binding its coordination instruments get, the smaller the room for maneuver becomes. This room for maneuver encompasses issues of autonomy as well as questions of sovereignty. Distance d characterizes the size of the room for maneuver. Distance d0, which is the smallest possible value for d, indicates that there is always some room left for maneuver. This can be traced back for example to issues of implementation.

Figure 5: Differing room for maneuver



One could therefore assume that states, supposed the concrete coordination problem can be solved in a (soft) way[50], will prefer softer or non-binding forms over hard law and more binding forms due to the aim to keep their room for maneuver as big as possible[51]. It should however not be forgotten that the room for maneuver may differ for different actors involved in an international coordination attempt. This evidence points to issues of power-distribution. Less powerful actors' room for maneuver can be smaller than for more powerful actors.

As already stated above, actually the real question is under which extraordinary circumstances states choose hard forms of coordination (Schäfer 2005: 17). The insights presented above are nothing new for scholars employed with regime theory and questions of institutional form. Uncertainty about possible consequences in the future, that makes states reluctant to more durable cooperative arrangements, has already been mentioned above (see chapter 6.4.3).

[50] Which is not always the case: Some issues can only be dealt in a binding form based on hard law.
[51] This does apply too, when governments delegate competences to institutions situated at a higher level. To maintain as much influence as possible these governments will insist on unanimity or qualified majority voting, even if the policy outcomes "are likely to be inefficient from a problem–solving perspective" (Scharpf 2006).

6.8 Summary

As can be easily regarded the range of theoretical approaches discussed in this chapter mainly cover the first and second research questions. These two questions deal with two different dependent variables, namely the development and the structure of this regime, that are both subject to regime analysis. This distinction between the two variables is important, because indifference at this point has already contributed to enough confusion in the political science debate about international regimes (Wolf 1989: 151). Table 1 visualizes and summarizes the different independent variables that are regarded to have an impact on the dependent variables.

Table 1: Dependent variables, variation, independent variables

Dependent Variable (DV)	**Variation of DV**	**Independent Variables (IV)**
Regime Formation	no regime – regime no coordination - coordination	individual leadership power – inclusion/exclusion of actors power – agenda control
Regime Form/Design	non binding – binding soft law – hard law	content of agreement reflecting enactors' preferences actor's strategic action uncertainty, sovereignty costs

The broad hypotheses that are presented in the following chapter stem from the insights of the theoretical considerations presented above. They are not regarded as being strictly derived from a specific theory and ready to be tested. Instead they should provide guiding direction for the answering of the research questions posed in this project. Nonetheless it will be examined if they are supported by the empirical evidence or not.

6.9 Hypotheses

Pure functionalist arguments are not viewed as being irrelevant here. Nonetheless the notion that soft coordinated institutions are chosen at the international level due to their flexibility, simplicity, the low contracting costs[52] and the possibility to overcome diversity among the participants, do not represent tough hypotheses. Although it is clear

[52] Contracting costs increase due to large number of actors, difficult national ratification procedures, or distributional effects of the negotiations (Abbott/Snidal 2000).

that these arguments constitute an important background for the analysis and are therefore surely taken into consideration, the focus will be set on the other theoretical approaches mentioned above. Since almost "all institutions are "functional" in that they respond to some problem that lies outside the institutions themselves" (Caporaso 2007: 401), this "problem" has to be included in the analysis. This task will be accomplished in chapter 8 of this dissertation.

The set of hypotheses developed in this dissertation are divided into three sections, each corresponding to one specific research question. Hence the first two hypotheses engage with explaining the genesis of the Bologna-Regime. The second series of hypotheses deal with explanations why this cooperation process does take place outside the European Union. Finally the last hypotheses engage with explaining the soft form of this coordination process.

Hypothesis 1a stresses Young's (1991; Young 1994) emphasize on the importance of individual leadership in the process of regime formation. Hypothesis 1b takes up the power distributionalist argumentation line and the focus on the powerful enactors (Gruber 2000). Building on Jupille and Snidal's (2006) approach the question why this cooperation takes place outside the institutional framework of the European Union will be modeled as a dismissal of the focal institution. This leads to hypothesis 2a. Hypothesis 2b repeats the power-distributional perspective with its focus on powerful actors influence. With hypothesis 3a Schäfer's main claim (2005) stemming from economic policy will be analyzed in the context of another policy field. This seems an interesting and necessary next step in advancing knowledge about the connection between soft coordination instruments and the goals or in other words the content -dimension or -layer Hypothesis 3b is added as alternative explanation, combining insights from the situation-structural regime-theoretical approach and theoretical concepts dealing with the importance of time. Contrary to the first hypothesis this one does not state that the content of an international agreement is substituted with procedure. Instead it is assumed that even in cases where compromise about the concrete goals exists, governments still may prefer to coordinate these issues in a soft non-binding way. Abbott and Snidal's (2000) focus on uncertainty and sovereignty is embedded in hypothesis 3c. Hypothesis 3d finally represents the answer from a power-distributionalist perspective, stressing the role of prime-moving actors.

Hypothesis 1a: For successful regime formation the presence of effective entrepreneurial leadership on the part of the individuals is required.
Hypothesis 1b: An international regime is created mainly by a small group of actors whose ex ante power position can be regarded strongest.

Hypothesis 2a: Lack of congruence concerning membership between the EU and the group of actors engaged in the cooperative initiative aiming to coordinate the higher education systems, leads to the dismissal of the EU as the appropriate institutional solution.
Hypothesis 2b: When powerful actors have alternative institutional preferences the EU, will not be selected as the appropriate institutional solution.

Hypothesis 3a: Governments choose soft coordination when no compromise about the concrete goals exists.
Hypothesis 3b: Governments choose soft coordination to widen their room of maneuver and to minimize unintended consequences, as far as possible.
Hypothesis 3c: When uncertainty and sovereignty costs are high governments prefer softer forms of legalization.
Hypothesis 3d: Enactors decide about which form an institution takes.

Each of these hypotheses tries to account for the genesis or form (in this project: soft coordinated institutions) of international regimes from a certain perspective, and each hypothesis entails certain implications. It is evident that the explanatory outcomes of this analysis will be a combination of these different but nonetheless not mutually exclusive hypotheses. As can be seen these hypotheses mainly cover the strategic reasons of why soft coordination instruments are employed. Nonetheless, even if not formulated into preliminary hypotheses the explanations that go back to policy reasons are part of the analysis too. Especially because these policy-centered reasons represent the prevalent view on soft law, the proposition of alternative explanations focusing more on the strategic reasons seems an important task. It is important to note that the critical examination as formulated in the third research question will hopefully lead to the development of new theses and hypotheses.

7 Methodology

The aim of this chapter is to clarify and discuss, how the research questions of this thesis that already have been set into a theoretical framework have been worked on from a methodological point of view. Since these methodological considerations guide and for a certain degree also determine the whole research process, the outcomes and the quality of theses outcomes the occupation with questions of methodology is by no means a compulsory exercise but one essential part of the whole research project at all. The notion that concept formation and questions of research design and not the concrete methods are the relevant starting points at this for the "conscious thinker" (Sartori 1970) is still true. Every research process can be divided into different phases[53]. Here the starting point is the overall research design or the research strategy, which is followed by concrete methods or techniques of data collection and preparation. The last steps in this chain are the analysis, interpretation and presentation of the collected data[54]. This chapter therefore proceeds as follows: First the overall research design will be explicated, followed by a description of the concrete methods of data collection and preparation. Finally questions concerning the analysis and interpretation of the collected data will be discussed.

7.1 Research Design

As the research questions of this thesis already imply the main focus of interest lies rather on the explanation of this case then on testing hypothesis derived from specific theories. This does not mean that the results will not be discussed in a wider context and that no contribution concerning the further development of theory is intended, as already discussed elsewhere (see chapter 4). Nonetheless the clear focus on the Bologna initiative has some methodological implications, because here the tracing of this process[55] stands in the heart of this analysis, not the comparison of specific institutions,

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[53] Following Denzin and Lincoln (Denzin/Lincoln 2000: 20): Research Strategies => Methods of Collection and Analysis => Art, Practices and Politics of Interpretation and Presentation; or Mayring (Mayring 1993): Design => Techniques: Data Collection => Data preparation => Interpretation / Analysis

[54] In principle these phases apply to quantitative as well as to qualitative research. It is noteworthy at this point that I generally do not want to overemphasize the differences between these two research traditions since "most research does not fit clearly into one category or the other [...] Both quantitative and qualitative research can be systematic and scientific [and] neither quantitative nor qualitative research is superior to the other" (King et al. 1994).

[55] Not to confuse with the research technique/method/strategy named process tracing as described by George, Bennet or Checkel (George/Bennet 2005; Checkel 2005), that does in my point of view besides its catchy label not depict a very clear and well-defined approach.

which would in the following be the logical next step. Hence this research project bases on a single case study, a research approach or strategy[56] that is quite well established in the social sciences (see for example: Eckstein 1975; Lijphart 1971; Stake 2000). Especially in the qualitative paradigm single case studies are situated at the heart of the research strategy canon (Mayring 1993: 28). Nonetheless also research that is more oriented towards quantification regularly uses case studies, not only in the explanatory phase as will be explicated below. Hence it can be concluded that there exists more than just one type of case study. The same applies to the question what makes up a case itself[57]. The notion that "a case may be simple or complex […] It may be a child, or a classroom of children, or an incident such as a mobilization of professionals to study a childhood condition" (Stake 2000: 436) for example does in my view not substantially advance our knowledge about cases. Instead I follow George and Bennet (2005: 17f.), who define a case

> "as an instance of a class of events. The term "class of events" refers here to a phenomenon of scientific interest, such as revolutions, types of governmental regimes [...] that the investigator chooses to study with the aim of developing theory (or "generic knowledge") regarding the causes of similarities or differences among instances (cases) of that class of events. A case study is thus a well-defined aspect of a historical episode that the investigator selects for analysis, rather than a historical event itself."

Following the insights presented above it becomes clear that it is not the Bologna Process itself that makes up the case but the regime building that has taken place in the course of this initiative to coordinate higher education policies at the European level. Typologies of case studies mainly differ concerning the function the case study has to fulfill[58]. In reality however these types often become blurred. Although the aim of this case study surely is to generate, justify and if necessary reject hypotheses, there exists interest in the case itself (like with intrinsic case studies), too.

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[56] The choice to conduct a case study does not depict a choice of a concrete method: "Case study is not a methodological choice but a choice of what is to be studied. By whatever methods we choose to study the case" (Stake 2000: 435).

[57] It has to be noted in this context that many articles and books about these issues stem from disciplines other than political science and therefore the focus concerning the object of research as well as the level of analysis differs. Therefore case study manuals have to be treated with caution.

[58] For example: Explorative case study, hypotheses generating case study, case study to justify and illustrate quantitative findings (Lamnek 1995). Another typology identifies intrinsic, instrumental and collective case studies (Stake 2000).

What is special and a great advantage about a singe case study is "that by focusing on a single case, that case can be intensively examined even when the research resources at the investigator's disposal are relatively limited" (Lijphart 1971: 691). Notwithstanding these gains in depth have their costs too. Therefore it is inevitable to discuss some of the problems the chosen proceeding implies. It is evident that a research project like this one can due to restrictions in time and financial resources only cover a limited range of cases. The so called small-n problem is well known and documented in social sciences especially when qualitative methods are employed (Scharpf 1997; Eckstein 1975; Przeworski/Teune 1970), and does not only apply to single case studies.

Regarding the question if a study that is based on a singe case can contribute to our theoretical insight, Rueschemeyer (2003: 332) states that "even analytically oriented analysis of single historical cases [...] can yield significant theoretical gains. These gains go far beyond the rejection of determinist propositions from which the case deviates and the increased credibility a proposition receives from a confirmation under least likely conditions. They include the generation of new hypotheses, as well as their testing and retesting against the multiple data points a thoroughly analyzed historical case offers". Flyvbjerg (2006) points in the same direction when arguing that one can even make generalizations on the basis of a single case: "One can often generalize on the basis of a single case, and the case study may be central to scientific development via generalization as supplement or alternative to other methods. But formal generalization is overvalued as a source of scientific development, whereas "the force of example" is underestimated" (Flyvbjerg 2006: 228).

It is important to note that a single case study demands enhanced attention to be lain on the concrete methods. Hence to answer the research questions a multi-method strategy, a method –mix or triangulation[59] (Denzin 1970) will be employed. This proceeding is especially necessary with single case studies, to avoid errors and to capture all relevant aspects and dimensions of the research field (Lamnek 1995: 4f.). Here I follow the notion that triangulation not primarily serves to increase the validity of the findings but mainly to come to complementary findings. Therefore this combination of methods ensures an encompassing analysis of the object of research, and widens the scientist's

[59] Triangulation is "the use of multiple methods in the study of the same object" (Denzin 1970).

focus. In the following section of this chapter the concrete methods that will be employed in this research project are discussed.

7.2 Data Collection and preparation

The logical first step of every research project is to collect and analyze the existing literature concerned with the respective research topic. Hence first and foremost the existing secondary literature on the Bologna Process, which lacks in large parts considerably theoretical perspective and stringency has been collected and set into the perspective of the research questions and the theoretical approach to cover the descriptive dimension in a stringent way. This applies especially to the first research question that asks for the reasons why this initiative did start in the first place. Nonetheless an all-embracing answering of this research questions did require other data sources too. This is also true for the other research questions, for which no secondary literature exists. Additionally to this analysis of the secondary literature an explorative newspaper analysis has been conducted, to get a quick overview of what has happened in this process and to identify the relevant actors involved. Therefore six European newspapers[60] as well as the European daily bulletins have been systematically scanned, covering the time-frame 1998-2005.

Clearly one important part of this research project has been the collection and analysis of the relevant primary data, that is composed of official documents[61], (progress) reports and statements of participating actors. Since these documents and reports do only partially provide the necessary information to answer the research questions this thesis does not only rest on the analysis of existing primary data but also on data gained from expert interviews and an e-mail survey.

Interview methods and especially expert interviews have become common in Political Science (Leech 2002), not only in the explorative phase of a research project but at the heart of the data collection. Still expert interviews are often used in the Social Sciences as a means of exploring the field of research. Explorative expert interviews therefore help to structure this field and to generate first working hypotheses. Nonetheless expert

[60] To get some variation two Austrian (Der Standard and Die Presse), two German (Süddeutsche Zeitung, Die Welt) and two British (The Guardian, Times Higher Education Supplement) were used.
[61] For a list of primary data used in this thesis see Table 8 in the appendix (chapter 15.1).

interviews may also be used to gain systematic and complete information from experts that possess specialized knowledge that is otherwise not directly accessible. Therefore this type of expert interview is called systematizing (Bogner/Menz 2002). The third type of expert interview, as invented by Meuser and Nagel (1991) aims at the generation of theory. Concerning the question who actually is an expert, two lines of argumentation prevail. The first a very broad notion (see for example: Gläser/Laudel 2004), regards eventually everybody as an expert (of his/her everyday life (Bogner/Menz 2002: 40)), whereas a more narrow conception does only conceive persons as experts because of their function in an organizational or institutional context. Being an expert is dependent on the research question and therefore a relational status. The researcher defines his/her experts according to the respective research questions (Meuser/Nagel 1991). For most questions in Political Science the latter conception of expert is more useful than the voluntaristic "everybody is an expert" notion that – in my opinion – partially even undermines the whole method as a useful tool for the collection of data. In this research project the selection of interview partners was informed by the fact that it was due to reasons of time and language ability, not possible to interview one expert from every participating country. Additionally it did seem better not to choose only experts from some countries, which would have biased the interview data. So members of the European Commission that have observed the whole Bologna initiative since the beginning have been interviewed. This is due to two reasons: First of all they possess the necessary information and second they are expected to rather give the "big picture" instead of praising the individual national achievements[62]. Additionally interviews with experts highly involved in the preparatory phase of the Bologna ministerial meeting were conducted[63]. Based on a structured open questionnaire, these expert interviews took place between April 2006 and January 2007 (see Table 9 in the Appendix). In preparation for these interviews and the questionnaire the tension between openness and the need to get usable data as well as problems concerning the perception of the researcher by the expert have been taken into consideration (Bogner/Menz 2002; Gläser/Laudel 2004). Also purely practical instructions and hints for the interviews have

[62] In fact the Commission officials did of course especially overemphasize the role the Commission played in the beginning of the Bologna initiative, which did not come as a big surprise and was manageable.

[63] The former Austrian minister participating at an informal Education Council in Baden 23-24 October 1998 during the Austrian presidency, the chairman of the Sorbonne follow-up group preparing the Bologna Declaration and the unofficial "author" of the Bologna Declaration itself were among these experts that have been interviewed.

been incorporated (Froschauer/Lueger 2003: 51-79; Helfferich 2004). These expert interviews were digitally recorded and transcribed[64], finally.

Additionally to these expert interviews an e-mail survey among experts from every country participating since the Bologna ministerial conference in 1999 has been conducted. An e-mail survey is the easiest reactive method of internet-based data collection (Batinic/Bosnjak 2000: 288). Analogical to postal surveys a questionnaire is sent out, which the recipient is expected to complete and return (Bandilla/Hauptmanns 1998). In principal two possibilities exist how to send out the questionnaire: a) the questionnaire is embedded directly in the text of the e-mail or b) the questionnaire is an own file in the attachment[65]. The main advantages of internet-based methods of data collection compared to traditional methods are the minimal costs (Sheehan 2001; Yun/Trumbo 2000), the fast responses (Dillman 2000; Tuten 1997), and the geographical independence. Additionally it is not necessary to put in the data by oneself. Nonetheless there exist several restrictions and sources of error too, when using these methods. In fact internet-based methods of data collection can only be applied to a very limited range of cases mainly due to problems concerning the definition of a target population and "perhaps the most critical problem with Internet-based research": "the practical impossibility of probability sampling" (Smith 1997). Problems concerning the response rates or the quality of the data then again do not seem to very much differ from traditional methods of data collection (Sheehan 2001; Yun/Trumbo 2000). What does matter nonetheless, are questions about the technical implementation that have to be thought about very carefully[66]. Summing up the main points it has to be noted, that e-mail surveys can only be applied to a limited range of cases. Especially useable quantitative data is much harder to gain as one may expect in advance. This is mainly due to issues of probability sampling, which is a necessary precondition for most statistical operations. Nonetheless surveys in closed networks or elite- and expert-

[64] For the transcription the free available software "f4" (http://www.audiotranskription.de/f4.htm) was used. Since anonymity was assured to all interview partners, the interviews were randomly numbered and citations just refer to this interview number (e.g.: Interview X: 22). The citation does not refer to pages but to line numbers. The spoken interviews were transcribed mainly as they were spoken (therefore grammatically not perfect), not including special labels for breaks, pitches of the voice or nonverbal elements. Due to improve the interviews readability the word order was sometimes corrected without changing the meaning of the sentences. Since these interviews were conducted with the aim to gain shared knowledge (Meuser/Nagel 1991) from the experts it has not been necessary to create commented or word-for-word transcriptions (Mayring 1993).

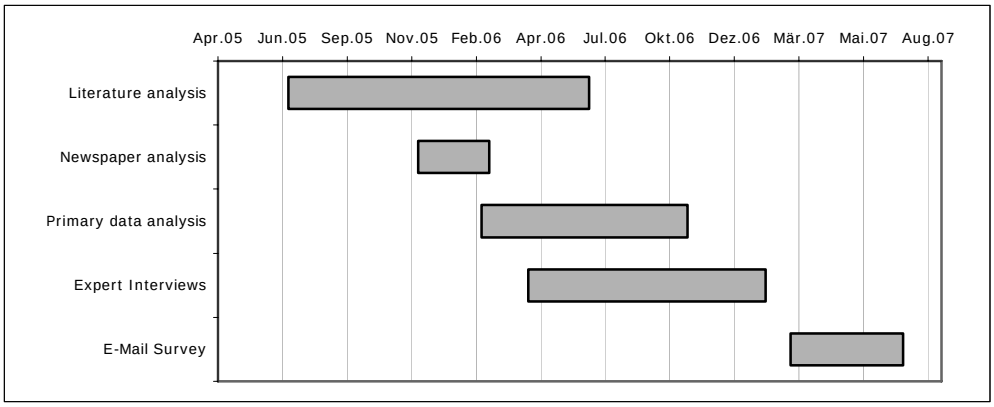
[65] The second possibility is widely rejected (Batinic/Bosnjak 2000; Hewson et al. 2003).

[66] Concerning this point see especially: (Dillman 2000).

interviews, collecting qualitative data seem to be a useful application of internet-based methods[67].

Since this case study cannot rest only on the data gained in the expert interviews, that have been conducted mainly among European Commission officials, an e-mail survey has been conducted among experts from every country that has participated since the conference in Bologna[68]. To improve response rates and the quality of the data, the questionnaire has been constructed in compliance with the instructions stemming from the relevant literature[69]. Four weeks after the first e-mail a reminder e-mail has been sent out that improved the response rates considerably. Altogether 15 out of 30[70] experts did response the e-mail and the length and quality of some of the answers are quite surprising[71]. Figure 6 provides a temporal overview of the process of data collection.

Figure 6: Phases of data collection



[67] For more information about e-mail surveys and internet-based methods of data collection in general see the literature mentioned in this chapter as well as the following internet resource: http://www.geog.le.ac.uk/orm/ .

[68] Due to practical reasons and also due to reasons of comparability the members of the Bologna Follow Up Group have been selected as good experts. Stemming mainly from the national ministries, most of them have widespread knowledge about their higher education system, reforms planned and their countries motivation to join the Bologna initiative. It also has to be added that – at least partly useful – participant lists including e-mail addresses from the BFUG exist. At this point it is noteworthy that nonetheless a third of these e-mail address did not work, which did entail some more research exercise.

[69] Hence the questionnaire is composed of nine questions sent directly inside the e-mail, not in the attachment. None of the respondents seemed to have technical problems or problems concerning the language (the questionnaire was only sent out in English).

[70] The Flemish and French community of Belgium are counted as two and Austria is not included.

[71] In accordance with the data stemming from the expert interviews, the texts stemming from this e-mail survey are reformatted and numbered, too.

7.3 Interpretation and analysis of Data

There does not exist just one possibility of how to analyze material that has been collected with qualitative interviews (Lamnek 1995: 108), but there exists a bunch of methods and specific techniques that nonetheless have to be adapted to each individual case[72]. It is at this point helpful to recall that many of these qualitative methods and techniques have been developed in disciplines other than Political Science like Sociology or Pschology. Since the epistemological interest often differs very strongly between these disciplines, this also implys that not every concrete qualitative method or technique is well suited to be applied to Political Science questions. It is additionally necessary to keep in mind, that qualitative analysis of text has to be performed in a systematic way, following previously defined rules. Therefore one has to define the sequence of the analysis in advance.

The analysis of the data gained in the expert interviews of this research project has been informed by the concept of qualitative content analysis (Mayring 2003), which represents a structured, systematic and theory-based way of analyzing interview data. Big amounts of text can be processed (Mayring 1993: 98). Since content analysis is not a standard instrument it has to be adapted to the respective object of research and to the specific research questions (Mayring 2003: 42). The main aim of content analysis is the analysis of material stemming from some source of communication (Mayring 2003: 11). Important basic ideas of this method are the proceeding according to rules, the centrality of categories and the care for criteria of reliability and validity[73] (Mayring 2000). In this dissertation project a certain form of structuring qualitative content analysis has been employed. The main aim of this type of content analysis is to extract and summarize certain topics, contents and aspects out of the material.

The choice of these contents depends on categories that have been developed according to the theories employed (Mayring 2003: 89). It can be seen that the definition of categories lies at the core of structuring qualitative content analysis. If it is necessary even sub-categories can be developed. In a so called coding agenda, the definition of categories, examples and coding rules for the categories are collected. After this

[72] For an overview about methods for analyzing qualitative data see for example: (Ryan/Bernard 2000).
[73] For a general sequence model of content analysis see: (Mayring 2003).

important step - the development of the coding agenda - the material is worked through. Since this method is embedded in the qualitative paradigm openness is demanded. Therefore categories and coding agenda may be revised after the first working through the texts. After this revision and refinement procedure and the following final working through the texts, the results have to be interpreted (Mayring 2000, 2003). This interpretation has to take place with regard to the research questions, and should go beyond a mere description of the individual cases (Lamnek 1995: 215).

8 Changing background for higher education – main trends and developments

The context for higher education and in the following national higher education policies have changed starkly in the last decades. Most of these developments mirror the increasing shedding of limitations and growing interconnection but also changes of policy approaches and rationales[74] can be observed. The major trends and developments that have important impact on national higher education systems and policies will be illustrated in the following by some different but nonetheless in some ways connected developments: The increase in student numbers and international mobility, the increase of trade in higher education or the emergence of a so-called higher education market, and the developments and changes in the funding of higher education systems. In this context it is very important to exactly express what it is that one is talking about. Therefore vague notions of some kind of globalization influencing higher education systems and policies in one and the other way are not regarded as being useful and therefore avoided.

8.1 Student numbers

There is widespread consensus that a turn from elite to mass higher education has taken place in the last century. This expansion in student numbers that began in the 1960ies and intensified in the 1980ies, totally changed the academic landscape (Zgaga 2005). In 2004, 132 million students were enrolled in tertiary education globally compared to a 68 million in 1991. The main growth took place thereby in East Asia and the Pacific, Latin America and the Caribbean, the Arab States, Central and Eastern Europe and Sub-Saharan Africa (UNESCO 2006a: 21). Nonetheless even in North America and Western Europe, starting from a far higher level of tertiary participation, a growth rate of about 2% per year since 1991 was observable (UNESCO 2006a). In EU -15 on average the number of students has doubled in the period 1975/76-1996/97 (Eurydice 2000a: 104). Although in some countries in this region since 1998 periods of minor decrease in student numbers can be observed, taken altogether the number of EU-25 students has still grown by 16 % from 1998 to 2002 (Eurydice 2005c). Recent numbers available for

[74] These approaches and rationales are closely connected to the particular understanding of education that is dominating the contemporary discourse (Faschingeder 2005). This point cannot be further elaborated in the framework of this research project. Nonetheless it should be at least mentioned that on the levels of discourses and policy approaches changes have taken place. These changes have at least in the long run effects on concrete policies.

the EU-27 students show that the number of students is still growing, by over 10% in 2004 compared to 2001 (Eurydice 2007b: 39). The number of students matter in this context because some scholars regard the increase of student numbers and overcrowding as driving factors that make shorter durations of studies for many countries very attractive (Field 2003: 184). The move towards mass higher education with all its implications can surely be identified as one critical driving force of the "fundaments of contemporary higher education policies" (Zgaga 2005: 9).

8.2 Student mobility

Regarding the sheer number of mobile students at the beginning of the 21st century it becomes clear very quickly that we are no more talking about some hundred medieval scholars on their contemplative *peregrinatio academici*[75]. In 2004 at least 2,5 million students, studied outside of their home countries[76]. Compared to the 1,75 million students in 1999, this represents a 41% increase in five years. When looking at the period for which comparable data are available one can observe three remarkable surges in growth. From 1975 to 1980 the number of mobile students grew from 800.000 to over 1 million, which represents a growth by 30%. A second rise of 34% took place between 1989 and 1994. The biggest expansion is the one already mentioned above in the time period from 1999 to 2004 (UNESCO 2006a). When comparing this enormous increase of student mobility with the general increase in student numbers, it becomes clear that students are not increasingly more mobile, but they are increasingly pursuing their education. Nonetheless this steadily increase is not equally distributed, and therefore has important impact on the countries receiving mobile students, called host countries. The mobile student population grew about three times as fast as the domestic student enrolment in the six major host countries[77] that receive 67% of the world's mobile students - this clearly shows where the majority of mobile students goes to. In 2003 about 2,12 million students where studying in another country than their country of origin. 1,98 million (93%) studied in the OECD area (OECD 2006). When looking at

[75] Pilgrimage of the Scholar: It is estimated that in the seventeenth century 10% of all students in Europe were mobile and studying abroad (Neave 2003), which means regardless of total numbers that in the 17th century the percentage of mobile students in Europe was higher than now (Amaral/Magalhaes 2004).

[76] The problematic aspects of using nationality data for measuring mobility as pointed out elsewhere (Kelo et al. 2006) is recognized. Since it is above all the overall trend (the increase in numbers of students studying abroad) that matters here this should not pose a big problem in this project.

[77] United States (23%), United Kingdom (12%), Germany (11%), France (10%), Australia (7%), Japan (5%).

the number of foreign students hosted by a country in this area over the last twenty years one can recognize that some countries had quite impressive growth rates, whilst others tended to keep their rates stable. Besides Australia and New Zealand it's especially EU countries that experienced the biggest increase from 1980 to 2001. In this area Europe is the largest receiving region, but many of the mobile students are moving from one European country to another. 52% of foreign students in Europe are European (OECD 2004; UNESCO 2006a).

8.3 Funding of higher education systems

Due to the fact that the increase in student numbers and the resultant financial burden is often mentioned to explain the attempts to change higher education structures[78] (Pechar et al. 1998: 1-3), the funding of higher education structures will also be discussed in short[79]. It is noteworthy to recall that it is the aim of this chapter to just give an overview, and to depict the main developments, not to discuss issues of tertiary education funding in detail.

Generally educational expenditure is funded from two different sources, public and private ones. "Public expenditure includes all direct purchase of educational services by the public sector (irrespective of the administrative level concerned) whereas private expenditure includes the payment of tuition fees (and all other payments) mainly by households, the business sector and non-profit organisations" (Eurydice 2005c). Although higher education in Europe is mainly funded publicly, a development that is shifting the burden of financing from the state to the students and their families, with all its consequences like the increase of educational inequity, cannot only be observed in the United States but also in Europe (Salerno 2006: 88). This development started in the United States twenty years ago and the perception of higher education in Europe is also changing in the meantime. Education and thereby especially higher education is more and more regarded as a private benefit in contrast to the view that regards education as a

[78] The increased invention of tertiary colleges (e.g. Fachhochschulen in Austria) can be regarded as one answer to the expansion of tertiary education. Although they surely serve other purposes too, the invention of tertiary colleges is a way of expanding tertiary education at lower cost than expanding universities (Grubb 2003).

[79] For more general information on the relationship between state and higher education institutions regarding financial matters see for example: (Williams 1999). More detailed analysis about financing and autonomy or the assessment of costs per student can be found in: (Barnes 1999; Jongbloed et al. 1994).

public good (Heller/Rogers 2006; Teixeira 2006: 14). Nonetheless even the World Bank assumes that government funding is very likely to remain the primary source of financing for higher education in most countries (World Bank 2002: 91).

In principle one can distinguish between two main forms of governmental tertiary education subsidization. Whilst the first form is based on a transfer of money to higher education institutions the second form transfers money directly to students. Regarding the implications these different forms entail it is evident, that direct funding of higher education institutions reflects the idea of higher education as a public service (Williams 1999: 158). Nonetheless it should not be overlooked that state funding of educational institutions can take various forms, with different consequences and implications. The national context or steering framework within which recourse decisions are taken becomes an important part of this discussion. Here a shift has taken place throughout Western Europe that altered the relationship between government and public sector-dependent organizations. Regulation by control and central planning are more and more replaced by the establishment of boundary conditions within which higher education institutions must operate (Salerno 2006: 89). This deregulation and liberalization development is sometimes referred to as shift from a state control model towards state supervising model[80].

Although being the prevailing mode of higher education provision since the nineteenth century, state funding of publicly administered universities is not everywhere regarded as necessary. In many Asian countries for example, privately funded universities dominate the higher education landscape. Similar conditions can be observed with limitations in the former British system. Britain longtime differed from most other countries in Europe, and before the 1950ies there were hardly any public provisions of higher education (Williams 1999: 142f.; Pechar 2006: 59f.). It has to be noted here, that public funding of higher education institutions varies from country to country regarding the level from which it originates – from the national level, state or provincial level or

[80] Following the approach of Vught (Maassen/Van Vught 1994) two basic steering models can be distinguished in higher education policy. The *state control model* and the *state supervising model*, that are based on more general models of governmental steering, namely the *model of rational planning and control* and the *model of self-regulation* (Maassen/Van Vught 1994: 38-40). Whereas the state control model can be traditionally found in the higher education systems of the European continent the state supervising model has its origins in the higher education systems of the United States and the traditional British system. This shift is depicted elsewhere as a move from the old interventionary towards a new facilitatory state (Neave/Van Vught 1991).

even from the municipal level (Grubb 2003). A discussion that cannot be further continued in this context deals with the public financial support for private higher education institutions. Nonetheless it should be mentioned, that in many countries also private higher education institutions do receive public financial support. This will be of increasing salience in the future due to the steadily expansion of the private higher education sector. It is also important to watch these developments in the European context, given that in Eastern Europe an enormous expansion of the private higher education sector has taken place since the beginning of the 1990ies[81] (Salerno 2004).

As mentioned above, in Europe (data covers the EU-25 here) education is mainly funded from public sources. In all these countries at least 80% of the total educational expenditure stem from public sources (Eurydice 2005c). This picture diversifies when only tertiary education is concerned and the circle of countries is widened. In OECD countries for which data is available, the proportion of private expenditures on tertiary institutions ranges from less than 5% (e.g. Denmark, Finland, Greece) to more than 50% (e.g. United States, Australia, Japan) and over 85% in Korea (OECD 2005). It is noteworthy that 80% of private expenditures are covered in tertiary education by private households. In the time period 1995 to 2002 the share of private expenditure on tertiary educational institutions increased in most OECD countries. This rise in private educational expenditure has - with the exception of Australia - generally not been followed by cuts in public expenditure (OECD 2005). Expenditures on tertiary education as a percentage of GDP, both public and private remained quite stable between 2000 and 2003 (UNESCO 2006a). Data on expenditure on tertiary education per student between 1995 and 2002 show that only in 5 out of 23 OECD countries for which data is available, expenditure declined. This can be traced back to rapid increases in student numbers in these countries during the same period (OECD 2005).

8.4 Trade in higher education services[82]

It is well known that education in general and higher education in particular have become big businesses. Educational services were included in the negotiations under the

[81] In Czech Republic, Hungary, Poland and Romania enrolment in the private sector increased from 12.000 students in 1990 to 320.000 in 1997 (World Bank 2002).

[82] Data on trade in educational services are rare and often different methods and indicators are used for the surveys. The data used in this paper are mainly taken from OECD and Eurydice publications, as well as the recently published UNESCO education digest (UNESCO 2006a).

General Agreement on Trade in Services (GATS) in the World Trade Organization (WTO). This agreement regards education as a service, and aims at the removal of all trade barriers. Nonetheless the European Commission that has the negotiation mandate in the WTO rounds for all EU countries, does not want to go beyond the 1994 agreement regarding liberalization in the field of higher education. The agreement of 1994 limits liberalization in higher education to privately-funded education services. Public services are not directly affected (Hartmann 2004; Reinalda/Kulesza 2005)[83].

The discussion about dangers of further liberalization, marketization and the increasing predominance of economic thinking in systems of higher education or in discourses about higher education are acknowledged as being important contributions in this research field. Normative debates about the question if education should be regarded as a tradable service subordinated to the forces of a free market or not, are to some extent necessary and interesting, indeed. Analyses of these discussions and debates help besides their normative input to improve the understanding of policy rationales and approaches that guide and justify political action in this policy field (see for example: Lassnigg 2003; Hartmann 2004; Bache 2006). Nonetheless it has to be stressed that tertiary education has already become a global market[84] and many countries and their higher education institutions have an essential interest in getting their slice of this still growing cake. According to this it is incontestable that increasing cross-border exchange and an increase in education services that are traded have an impact, or at least make up a necessary background for changes in higher education systems. In the following the main trends and issues will be discussed in short. In doing so the emphasis lies especially on the developments over time.

The overall size of the global education market is estimated at more than US$ 2 trillion. This encompasses public as well as private household spending on education. Teaching staff employed in public as well as private education makes up for between 2% and 5% of the total labor force (Patrinos 2000). The segment of the market related to international student mobility has amounted to an estimated minimum of US$ 30 billion

[83] Due to limitations in time and space the connection between GATS and higher education systems/institutions cannot be further examined here. See for example: (Scherrer 2004; Knight 2002; Barblan 2002).

[84] As a matter of fact it's a combination of a multitude of markets. One could distinguish between a market for students, a market for research staff, a market for grants and scholarships, and so on (Jongbloed 2003).

for the OECD countries alone (Patrinos 2000; OECD 2004). This makes up about three per cent of their total services trade. Students traveling and studying abroad still constitute the largest component of international trade in educational services (Larsen et al. 2002). At this point it has to be mentioned that cross-border education and trade in education does not limit itself to students going abroad. It is useful to distinguish between three[85] main forms of cross-border higher education, that correspond to the different modes of services trade according to the WTO classification (see: Knight 2002: 212) of supplying goods and services across borders. Nonetheless it should be mentioned that the data available mainly cover the first mode - consumption abroad - which is often used as an indicator for estimating the overall level of trade in educational services (Larsen et al. 2002).

a) Student mobility (consumption abroad)

This is the most common form of cross-border higher education. International flows of students make up at present the largest part of the global market for education services. Besides the costs for living foreign students are often obliged to pay cost-covering tuition-fees, which makes these "full fee paying students" (Pechar 2003) very attractive for universities. Especially universities in Anglo-Saxon countries (United States, Australia, and United Kingdom) are successfully engaged in the recruitment of foreign students. The English language may constitute an advantage of location thereby, too[86].

b) Program mobility (cross-border supply)

This second most common form of cross-border higher education corresponds to the traditional form of trade in goods. Only the service itself crosses the border. Distance learning and e-learning complemented by traditional teaching sourced out to partner institutions as well as franchise arrangements, allowing local providers to offer a foreign educational program are covered by this form. It is easily imaginable

[85] The presence of natural persons traveling to another country to provide an educational service on a temporary basis (guest professor, researcher) is not being counted as a mode in its own.

[86] Generally it has to be noted that language is one of the key factors determining student choice in destination. This does not only hold true for the English language. Belgium and France for example rare the most popular destinations for francophone students stemming from sub-Saharan Africa (UNESCO 2006a). Nonetheless not only language can be regarded as a crucial factor. Even Austria has its advantages of location: "" You'll never have university education [in the UK] up to the standard of Austria", said a student reading Dickens in Vienna's Cafe Benno, among companions playing chess and cribbage " You haven't enough cafes"" (THES, 16.4.1999).

that these forms of cross-border higher education services will grow further in the near future due to steadily innovation and in, and extensive spreading of information and communication technologies[87].

c) Institution mobility (commercial presence)

Mobility of institutions, which refers to the establishment of facilities abroad by education providers, is still limited in scale but is becoming more and more an important feature of cross-border higher education.

(Larsen et al. 2002: 850f; OECD 2004: 3)

For some countries traded educational services have become an important business, and concerning their higher education policy rationales, it can be stated that they now tend to follow a "revenue-generating approach" (OECD 2004), pushing an active higher education export policy. Australia, New Zealand and the United Kingdom are examples of countries that adapted this strategy for successfully promoting education as an export industry. Especially Australia experienced an impressive growth in the trade of educational services since the 1970ies. There education has become the eight largest export industry in 1999, which amounts to 12 per cent of Australia's total exports of services. (Vlk 2006: 33f; Larsen et al. 2002). Expressed in numbers earnings from foreign students represented about US$ 6 million in 1970. They increased up to about US$ 2 billion in 1999. The United States representing the biggest exporter of educational services earned US$ 11,5 billion in 2001, followed by the UK with US$ 11,1 billion (Vlk 2006; Larsen et al. 2002). When talking about the whole higher education services market one has to consider that these numbers only cover revenues due to student mobility. Comprehensive data on program- and institution-mobility is not available yet.

8.5 Summary and further discussion

Following the discussions mentioned above, one can clearly observe important developments and major changes concerning the overall background for higher education. These developments and changes have to be regarded as important *stimuli*

[87] For more discussion on the effects of new information and communication technologies see for example: (Trow 2000).

for the change in higher education policies and for increased cooperation at the European level. Nonetheless they do not necessarily *explain* why cooperation took place, or *determine* the form of this cooperation.

Summing up the main findings it is not very amazing, that the enormous increase in the number of students is also mirrored in the number of mobile students, studying abroad. Concerning the effects on the funding of higher education it is noteworthy that the dreaded cuts in public expenditures due to increasing student numbers have not arrived yet. In European countries expenditures for higher education are relatively stable if regarded as a percentage of the GDP. Nonetheless even in Europe private expenditures are rising, for example in the form of tuition fees. An already visible consequence of the increase in student number and student mobility is the advent of a competition for students in the so-called international higher education market among developed countries[88], especially among the United States and Europe. Interestingly it is not only short-term economic considerations that play a role in the decision to host mobile students. Even if mobile foreign students in the actual moment constitute a burden on national education systems, in the longer run theses students might bring high returns to the host country – although not necessarily in the education sector. The need of aging societies to attract high skilled people may also be part of the consideration (UNESCO 2006a: 46). Opportunities that emerged on the global market and the proactive approach of some countries (especially Anglo-Saxon countries) towards the export of higher education have also been noticed in continental Europe. It was recognized that in the 1980ies the number of students coming from Europe that were studying in the United States for the first time exceeded the number of American students in Europe. Although Europe still hosted more foreign students than the United States (over 800.000 compared to 547.000 in the year 2000), the greatest amount of international students studying in Europe came from Europe itself. This competition disadvantage and the lagging behind has also been noticed by the member states of the EU, which responded to theses challenges for example within the framework of the Bologna Process (Vlk 2006). It could be followed that the EU countries looked across the Atlantic for inspiring models, when trying to establish their own pan-European framework. Regarded this way one key component of the Bologna Process has to be interpreted as

[88] This analysis does not involve questions of how the unequal competition on this global higher education market effects education systems of developing countries (Langthaler 2005).

the creation of a European version of American degree standards and matriculation (Douglass 2006). It will be interesting to observe in the future if American higher education degrees still "remain the gold standard throughout the world" (Langan 2004: 453).

Clearly structural convergence of the national higher education systems as fostered with the Bologna Declaration has mainly two purposes: To increase the attractiveness of European higher education to students from elsewhere[89] and to foster and facilitate student mobility within Europe (Teichler 2006: 457). In this sense the Bologna Declaration can also be interpreted as a European response to the US dominance in higher education (Langan 2004: 449).

From the outside view – the American view – Europe is increasingly catching up, concerning its position on the higher education market. Only from inside Europe the process seems slow-going. The speed of change in Europe has to be pointed out. For example financing changes that occurred over 20 years in the US are implemented in a much shorter timeframe (Heller/Rogers 2006: 92), which also points to a further important factor: Higher education is a very important policy issue in Europe, and especially EU countries are engaged in national and international debates about the future of tertiary education. This stands in contrast to the US where education is in the moment a second-tier political issue (Douglass 2006).

[89] Since from the beginning of the Bologna initiative also national interests did play an important role (see: chapter 11.1), I do not follow Teichler who assumes that this focus on competitiveness and the fostering of increasing European Universities attractiveness to students from outside Europe has shifted in the meantime, so that the invention of a tiered system is being regarded in the meantime, as having intra-European value, too (Teichler 2005: 93).

9 Cooperation in Higher Education Policy in Europe

The cooperation attempts in higher education in form of the early EU/EC education and training programmes like Erasmus, as well as other Community action like the invention of the ECTS system[90] are often mentioned as important explanatory factors for the starting of the Bologna Process (Wächter 2004: 268). Therefore this chapter gives a first comprehensive insight into the development of cooperation concerning higher education in the EU/EC[91]. It should nonetheless not be forgotten that cooperation also took place outside the EU involving other International Organizations. Hence the most important developments that took place under assistance of other important actors in the field of higher education policy are included in this discussion, too.

9.1 Cooperation in the framework of the EU/EC

To be clear, education was not part of the original EEC (European Economic Community) program and has not been mentioned in the treaties as an independent subject for common policies until the Maastricht Treaty. The earliest decisions connected to matters of education concerned vocational training and recognition of qualifications. These areas also formed the label under which EC educational activities were promoted (Keeling 2006: 204). Altogether EU policies in the field of education are mainly intended to be additional to national policies (Beukel 2001: 124), as finally stated in the Maastricht Treaty, too (art. 149/1 TEC). Hence European activities longtime lacked a legal basis for action. But exactly this lack of legal basis in parts widened the room of maneuver for the European Commission, which actively used this freedom for action, that would have been more difficult or even impossible within a clear-cut legal structure (Brakel et al. 2004). Regarding the administrative capacity it is noteworthy that since its major reorganization in the course of the 1973 enlargement the European Commission was able to increase its staff and up to now about 550 officials and temporary agents in the respective Directorate-Generale (Gornitzka 2007: 10).

[90] ECTS, the European Credit Transfer System was first introduced in 1989 within the framework of ERASMUS.

[91] This exercise is necessary because for example "those who know the long history of education initiatives taken within the EC but not by it [...] will not have been surprised that the Commission was invited to the intergovernmental Bologna Process" (Corbett 2006). For a focused analysis of the European Union’s higher education policy from it’s beginning on see : (Corbett 2005).

One should thereby not forget to include the influential jurisprudence of the European Court of Justice (ECJ), which starkly contributed to the establishment of education as a policy field and to the expansion of Commission's competences[92]. The two most prominent cases – among others - concerning matters of education are *Casagrande* (1974)[93] and *Gravier* (1985)[94]. Since the *Casagrande* ruling 1974 education was seen as being of Community concern, when the creation of a common market was affected (Blitz 2003: 202). The *Gravier* ruling had two main results. The first was the establishment of EC students' right to equal access to higher education and the duty of the member states to respect this right. The second result was that higher education was qualified as being part of vocational education and therefore a Community responsibility (Hackl 2001b: 9f.).

Until the beginning of the 1970ies cooperation in the field of education took place incidentally (Brakel et al. 2004), which changed at the beginning of the 1970ies. Nonetheless, as Corbett (2003; 2005) demonstrates, this does not imply that the period before 1970 had no impact on higher education policies at all. In fact many relevant ideas stem from this period. Although twice postponed, the first meeting of ministers in charge of education from the then six member states of the European Community took finally place in July 1971 under participation of Alterio Spinelli from the European Commission. Increasing cooperation, concerning education was decided, and the ministers also agreed on the establishment of a European University Institute in Florence. There was also consensus among the ministers that cooperation in education should not stop at the frontiers of the EEC (Beukel 2001: 127; Corbett 2005: 62f.). Since this first meeting in 1971 ministers of education started to meet on a regular basis (Leitner 1993: 204)[95]. It may be of interest in this context that intergovernmental cooperation of EC member states is nothing new, as the creation of the European University Institute (a which had already been discussed in 1955 (Corbett 2005: 25-34)) in Florence in 1972 witnesses. The decision was taken by the governments of the then

[92] It is neither the aim of this dissertation to discuss the gradual expansion of Community competences in the field of education, nor the important role the ECJ played in this process. For a discussion concerning this issues see for example: (Hackl 2001a). For more information on the active role the ECJ held in furthering the integration process in detail see: (Stone Sweet 2004).
[93] Donato Casagrande v. Landeshauptstadt München (Case 9/74)
[94] Françoise Gravier v. City of Liège (Case 293/83)
[95] Until the Treaty of Maastricht these meetings ran under the label "Council and the ministers of education meeting within the Council", due to the lack of a legal base (De Wit 2003).

EC member states, but the agreement was taken under international law (De Witte 1993: 193).

In the consequence of the second meeting of the ministers of education in 1974 an Education Committee, composed of member states representatives and Commission representatives was set up, which got established as a permanent body with the adoption of the Community Education Action Programme in 1976. Among the main goals of the action program like the establishment of closer relations between the educational systems in Europe, the fostering of documentation and statistics on education, teaching of foreign languages there was also the goal of closer cooperation in the field of higher education (Beukel 2001: 128f.). The establishment of this program lay down the basis for future action. To foster closer cooperation among the member states and to get comparable data, already in 1976 the European Council argued for the establishment of a network for exchange of information concerning the organization of higher education (Official Journal C38 of 19.2.1976). This task was fulfilled with the establishment of the EURYDICE network[96] in 1980.

Between the years 1986-89 three important educational programmes[97] were adopted: COMMETT in 1986 (Community Programme for Education and Training in Technology), ERASMUS in 1987 (European Community Action Scheme for the Mobility of University Students) and LINGUA in 1989 (Language and Training Programme). Besides the objective to increase student mobility ERASMUS also had the goal of promoting cooperation between the institutions of higher education. With the invention of ERASMUS the European Commission also sought to influence cooperation concerning the national curricula (Langan 2004: 447).

[96] Established in 1980, expanded in 1990 by a resolution of the Council (Official Journal C 329 of 31.12.1990) EURYDICE is since 1995 part of SOCRATES the Communities action programme in education. The importance of information exchange was underlined in the Treaty on European Union (art. 149 TEC). The EURYDICE network consists of national units and a European unit set up by the ministries of education. EURYDICE network member countries are the member states of the EU, the three EFTA countries that are members of the European Economic Area and the EU candidate countries involved in SOCRATES. The main task of EURYDICE is to prepare and publish comparable monographs on the organization of education systems, studies on specific relevant topics and indicators (Eurydice 2000b).

[97] There were also other programmes established in this time period e.g. DELTA (learning technologies) or EURTECNET (professional education and information technology), but in this context they are of minor interest and therefore left out.

Regarding the scope of these programmes, it is noteworthy that COMMETT and ERASMUS already transcended the borders of the Community. EFTA countries participated since the early 1990ies. Cooperation agreements with the Mediterranean countries, the ACP[98]- countries, Canada and the USA were concluded (De Wit 2003: 163). With the program TEMPUS (Trans-European Mobility Programme for University Students) educational cooperation was already extended to the new democracies in central and eastern Europe (Beukel 2001). This program was set up in 1990 for Hungary, Poland, Romania, Bulgaria, Czechoslovakia and Yugoslavia (Brakel et al. 2004). What can be regarded in general for the 1990ies is the fact that the budgets for educational programmes in the EU increased. Nonetheless the overall characteristic that the main level of problem-solving and competence was the national level, still remained the same (Beukel 2001: 134). Additionally to the invention of action programmes two directives on the recognition on diplomas were passed: one in 1988[99] and a supplementary one in 1992[100]. They were intended to foster mobility and to a removal of barriers. It is true that enhanced student mobility requires if not harmonized systems, at least some level of mutual recognition of diplomas, which may in turn lead to increased mobility. The invention of a so called European Credit Transfer System (ECTS) was surely one important step towards this direction. Nonetheless one cannot observe the emergence of a quasi ""”autodynamic” convergence of European higher education systems with regard to the duration and organization of courses of study, admission standards, curricula and substantive content - which in turn is preparing the ground for future directives on the mutual recognition of educational certificates" (Scharpf 1994: 236), following an intended strategy of the European Commission.

Within the Maastricht treaty education finally got a legal base. Education and vocational training were thereby formally separated (art. 149 TEC/art. 150 TEC). Nonetheless the supplementary characteristic of education remained, which can be seen on the explicit reference to the need of respecting the responsibilities of the member states. This argumentation stands also in line with the subsidiarity clause (art. 5 TEC). With this

[98] African, Caribbean and Pacific countries: the term grounds in the Lomé convention from 1975, that was signed by the members of the European Community and 46 representatives of so-called ACP countries (Betz 2003).

[99] Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration

[100] Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC

treaty earlier Community activities like the action programmes were quasi legalized ex post (Wächter 2004: 271) The integrationist dynamic that could be observed until Maastricht ended with the establishment of a clear-cut legal structure, and was followed by a phase of relative political stagnation (Walkenhorst 2005: 7). It has already been mentioned that the cooperation attempt concerning higher education structures – the Bologna Process – takes place outside the EU, concerning the participants as well as the mode of decision-making. Nonetheless it is important to notice that this did not imply the end for higher education policy in the framework of the EU. Besides the developments following the European Council of Lisbon in 2000, other actions in related policy fields can be observed. For example the Bruges-Copenhagen process, that has the goal of enhanced cooperation in vocational training and education, taking over patterns from the Bologna Process (Balzer/Rusconi 2006). Summing up the main developments in the field of education it may be true that "what has been achieved in the past thirty years is a recognition of the value of cooperative efforts rather than an evolved policy" (Blitz 2003: 212). Although some functions are partially aggregated at the EU level, namely the fostering of mobility, the central functions still remain at the national level (De Wit 2003: 166).

9.2 Cooperation outside the EU/EC

It has not only been the EU that actively engaged in the field of higher education in Europe. Besides some regional initiatives of groups of individual states[101] especially international organizations were active in this policy field. In the following the main organizations that are actively involved in fostering cooperation among European nation states concerning their higher education policy, are discussed. Since it is not the main focus of this project, this will be done briefly. Nonetheless it is important to show that cooperation in higher education policy is not only part of EU business and has always been a field where several international actors were involved[102]. To be true, the Council of Europe had been the first international forum that was given competences to develop measures aiming at the facilitation of cooperation in higher education. Ministers

[101] Some regional initiatives were launched to enhance mobility of students and teachers. E.g. Nordplus, Pushing Back the Borders, Ceepus (Zgaga 2005).

[102] Interestingly in the very early days of educational cooperation at the European level even the Western European Union (WEU) was involved, by fostering contacts between the national rectors' bodies. A task, that was regarded as being part of the own cultural propaganda mission (Corbett 2005).

responsible for matters of education of Council of Europe signatories started to meet regularly since 1959, to pass several resolutions (Corbett 2005: 52f.).

Concerning academic recognition the Council of Europe and the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted seven conventions since the 1950ies. The joint convention of 1997, the so-called Lisbon-convention[103] which entered into force in 1999 has been the last one. It has to be pointed out that not only European states signed it, but also certain non-European states like Israel, Canada, the United States or Australia. Not all signatory states have ratified the convention yet. The aim of these conventions is the setting of common standards, dealing with equivalence of diplomas, periods of study and recognition of qualifications (Reinalda/Kulesza 2005: 53f.). Being the only UN agency with an explicit mandate regarding education, UNESCO's financial and personnel capacities concerning higher education are relatively limited (De Prado Yepes 2006: 122).

Regarding educational statistics, the establishment of common indicators and benchmarking the Organization for Economic Cooperation and Development (OECD) has longtime experience. Regarding common education indicators the OECD has replaced most other organizations in the meantime (Martens/Wolf 2006: 163). Although originally only interested in the field of education as long as matters of economic development were touched, the OECD is actively engaged in this area since the early 1960ies (Reinalda/Kulesza 2005: 60f.). With the invention of the Center for Educational Research and Innovation (CERI) in 1968 and the establishment of the education committee two years later, education policy became institutionalized as a field of activity (Martens/Wolf 2006: 163). The establishment of the International Indicators of Educational Systems (INES) and the further development of the International Standard Classification of Education (ISCED) originally invented by UNESCO, consolidated its role as the most important and influential organization concerning education statistics (Weymann/Martens 2005). Though solely based on peer pressure, the impact of OECD education policy reviews on national policies should not be underestimated[104]

[103] Convention on the Recognition of Qualifications concerning Higher Education in the European Region (CETS No.: 165). For the list of current signatory states see: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=165&CM=8&DF=8/8/2006&CL=ENG

[104] For a critical comment on benchmarking and ranking and its effects on the educational sphere see (Lissmann 2006: 74-87).

(Huisman/Van der Wende 2004: 351). The most prominent example of OECD influence through benchmarking and production of statistical data stems from a lower level of education: PISA (Programme for International Student Assessment). With its production of statistical material as a factor of harmonization the OECD should not be disregarded, even if it does not directly intervene (Lawn/Lingard 2002: 300), and nearly totally lacks financial and legal instruments (Weymann/Martens 2005: 81). OECD education policy reviews are regarded as being extremely influential, in making national governments aware of the differences and similarities of their national higher education systems towards a certain European ideal type model (Huisman/Van der Wende 2004: 351). Especially the annually published "Education at a Glance" analysis receives much attention.

Interestingly the OECD is also longtime active in fostering discussions on education and science policy. The first meeting of OECD ministers of science took place in 1963 in Paris (Benum 2005). Following the discussion above it can be concluded, that the OECD fosters interstate cooperation with its benchmarking practices, recommendations, and declarations. Although the organizations mentioned above clearly are the most important ones regarding active involvement in the field of European higher education, one should not overlook that a bunch of other organizations and actors are more or less involved too[105].

[105] e.g. The World Bank, that is known for her activity in stimulating public policy reforms in former communist countries (Halász 2003), including the educational sector.

10 Institutionalizing soft-law: The Bologna-Regime

The term Bologna Process describes an intergovernmental[106] agreement between nearly all European countries, both EU-members and non-EU members. Additionally a bunch of other organizations participate and more or less try to influence and steer the process. Although the process is formally situated outside the framework of the EU one should not fall into the trap of underestimating the increasing influence of the European Commission. This growing influence can be mainly traced back to financial and organizational support but also to the Commissions agenda setting power and its influence on the level of discourse (Keeling 2006). Although the Commission did only get a full member of the process at the ministerial meeting in Prague it supported it from the beginning, funding research projects and seminars. Some scholars even argue that there would have been no preparation for the meeting in Bologna and therefore no successor to the Sorbonne Declaration without this financial support from the Commission (Balzer/Martens 2005). Although being weak regarding the legal basis, the Commission in fact can build upon her resources she can offer and her unique position as "a permanent nexus in this policy sector" (Gornitzka 2007: 27), that would be very difficult to substitute for other actors, be it national or international ones.

In the following this chapter aims to discuss the Bologna Process in line with regime theory, as outlined in the chapter dealing with the overall theoretical framework. The individual parts forming the Bologna-regime are therefore analytically divided and discussed. The temporal ordering ((Sorbonne) – Bologna – Prague – Berlin – etc.), is not continued here.

10.1 Principles and main goals

The most prominent and well known aim is surely the aim to *establish a European area of higher education*. According to ministers of higher education this European Higher Education Area (EHEA) should be established by 2010. Clearly this aim, repeated like a mantra in official statements is more a header or trademark than a real goal. Because no

[106] Strictly speaking the Bologna Process has begun as a mainly inter-ministerial forum that had been upgraded towards a real inter-governmental forum (Zgaga 2005: 9). This is mainly due to issues that cannot be dealt by the ministers of education alone (e.g. VISA policies).This point has already been taken up by the actors involved, in the course of discussions about the external dimension of the Bologna Process (Zgaga 2006), following the official Bologna seminar that took place in Oslo, 28-29 September 2006.

one would deny that a European area of higher education did also exist before Bologna. It depends on which characteristics one applies to this "area of higher education" and which definition of "Europe" is employed[107]. Actually the original declaration did contain three main goals: international competitiveness, mobility and employability (Lourtie 2001: I). Some additional, regarding their content mainly complimentary goals were added since then at the following ministerial meetings.

Mobility among students and higher education institutions' staff should be increased as well as the *employability* of graduates finishing their higher education in Europe. Greater *compatibility and comparability* between higher education systems should be reached as a further goal. Finally the *attractiveness and competitiveness* of European higher education should be increased. For reasons of balance this competitiveness-goal should not be reached at the expense of social characteristics of the EHEA. So a reduction of social and gender inequalities at the national and European level can be regarded as an additional goal (Bergen Communiqué 2005; Berlin Communiqué 2003; Bologna Declaration 1999; Prague Communiqué 2001).

10.2 Norms and rules – action lines

Regarding the norms and rules that govern the interaction in the framework of the Bologna Process, which are referred to as main action lines in the literature (Reinalda/Kulesza 2005), one can mostly observe a continuousness with former EU action programmes and Commission objectives. Only the coordination concerning degree structures is a real invention in this context. Not at least due to its newness, this aim to change degree structures dominated the discussions and perceptions form the beginning (Wächter 2004: 268). With the implementation of the Diploma Supplement a system of easily readable and comparable degrees should be adopted. A system of studies based on two main cycles, undergraduate and graduate should be adopted too. This two-cycle structure has been broadened at the Berlin ministerial meeting, with the inclusion of a third cycle encompassing the doctoral level. The action lines stated briefly in the following, underpin the similarities to former action programmes. Mobility should be promoted and obstacles be removed. Here the necessity of developing a kind

[107] Interestingly this "*European* area of higher education" does in the meantime also encompass Russia, Moldova and the Ukraine. For a very telling visualization see Figure 12.

of currency allowing mobile students the transfer of finished courses from one country to another points at the need to establish a system of credits (like the European Credit Transfer System ECTS). Also European cooperation in quality assurance (with the development of mutually shared criteria and methodologies on quality assurance), the European dimensions in higher education and the attractiveness of the EHEA should be promoted. Additionally lifelong learning the involvement of higher education institutions and students in the Bologna Process and the promotion of links between the EHEA and the European Research Area[108] – as the two pillars of the knowledge based society, are included (Bergen Communiqué 2005; Berlin Communiqué 2003; Bologna Declaration 1999; Prague Communiqué 2001).

As can be seen, similar to the main goals also principles and norms are established at a quite high level of abstraction, hardly ever stimulating concrete actions themselves. In the next sub-chapter the organizational structure, and the decision making at the European level is discussed shortly. Nonetheless it surely has become clear to the reader up to now that a lot of concrete and important action takes place at other levels, namely at the national and the subnational - the level of individual higher education institutions.

10.3 Organizational structure – decision making

The process of setting up the organizational structure mainly lasted from the meeting in Bologna in 1999, until the ministerial conference held in Berlin 2003. Only minor changes happened afterwards. A few consultative members were additionally invited at the conference in Bergen in 2005. The first attempt to structure the organization of this coordination process took place at the informal meeting of EU ministers on 23-25 September, in Tampere[109]. There the establishment of two groups (a consultative group and a steering group) preparing the ministerial meeting in Prague in 2001 was decided (Reinalda/Kulesza 2005: 21). Nonetheless the organizational structure that is outlined here, represents the status quo established with the conferences in Berlin and Bergen,

[108] The creation of this European Research Area (ERA) was proposed by the European Commission in 2000 ((COM 2000) 6). This ERA shall also be fully developed in 2010 and is mainly funded by the Union's research framework programs (European Commission 2002).

[109] see: http://presidency.finland.fi/netcomm/News/showarticle774.html The fact that it was the EU ministers that took the decision clearly shows that especially EU members are in position to steer the process. This evidence can also be noticed when looking at the role the Presidency of the EU plays in the organization of the follow-up structure.

and therefore does not involve a discussion of the consultative group, the steering committee or the Bologna Preparatory Group which had to plan the ministerial conference at Berlin.

The main decision body is the *Ministerial conference.* These meetings of ministers in charge of higher education take place every 2 years. Following the conference in Bologna in 1999, meetings were held in Prague 2001, Berlin 2003, Bergen 2005 and London 2007. The next ministerial conferences will take place in Leuven and Louvain-la-Neuve (Belgium) in 2009 and in 2010 finally in Austria and Hungary. Decision making in the ministerial conference is based on consent of the participants. One of the main tasks of the ministerial conference is to adopt communiqués[110] and programmatic declarations that are prepared by the Bologna Follow-up Group. These communiqués include besides the preamble, a summary of the progress achieved since the last meeting, further action lines, changes of the follow-up structure, and formal delegations of tasks to the follow-up group. These communiqués are declarations of intention but not legally binding. Summing up it is the main goal of these ministerial conferences to take stock of the progress reached so far and to decide on further action.

Especially between the ministerial conferences the *Bologna Follow-up Group (BFUG)* and the *Bologna Follow-up Group Board* are important actors. The *Bologna Follow-up Group (BFUG)* is chaired by the EU Presidency at the time. The Vice-chair is held by host country of the next ministerial conference. Members of the BFUG are representatives of all signatory countries, new participants and the European Commission. As additional consultative members the Council of Europe, the European University Association (EUA), European Association of Institutions in Higher Education (EURASHE), the National Unions of Students in Europe (ESIB), UNESCO-CEPES, Education International (EI) Pan-European Structure, the European Association for Quality Assurance in Higher Education (ENQA), and the Union of Industrial and Employers' Confederations of Europe (UNICE) participate. The member countries are mainly represented by officials from the ministries. The BFUG is responsible for the monitoring and development of the process (stocktaking), the drafting of the next

[110] All communiqués and the Bologna Declaration itself (Berlin Communiqué 2003; Bergen Communiqué 2005; Bologna Declaration 1999; Prague Communiqué 2001) can be found at the web page of Bologna secretariat (http://www.dfes.gov.uk/bologna/).

communiqué, the organization of a series of official Bologna seminars, and since Berlin also the preparation of next ministerial meeting. Additionally the BFUG is obligated to promote the process. The BFUG may convene ad hoc working groups. The BFUG meets at least twice a year (Reinalda/Kulesza 2005: 29). See therefore also Table 10 in the appendix. In practice one should not overestimate the differences between full and consultative members because voting does not take place too often. Effectively only the place where the next conference will take place and new board members are subject to voting (Interview 4: 165-170).

The *Bologna Follow-up Group Board* which was invented to "oversee the work between the meetings of the Follow-up Group" (Berlin Communiqué 2003), has the same chair and vice-chair as the BFUG. Members are representatives of the preceding and following EU Presidencies, representatives of three participating countries that are elected by the BFUG for one year and the European Commission. As consultative member the Council of Europe, EUA, EURASHE and ESIB participate. The board is obliged to support the Follow-up Group, organize events and working groups on special issues with members of the Follow-up Group, give assistance to the new members, coordinate the stocktaking preparation and coordinate and monitor the implementation of the work program (Reinalda/Kulesza 2005). The meetings of the board take place more often than the meetings of the BFUG (See Table 10).

Since December 2003 the *official secretariat* composed of three persons, exists. It is located at the host country of the next conference. It has administrative and operational responsibility for the next ministerial conference, secretarial tasks, execution of special tasks if asked by the Follow-up Group or Board. The official secretariat is mainly invented to support the overall follow-up work (Reinalda/Kulesza 2005) and to provide information via the secretariat's webpage about the process in general (including a library of the main documents) as well as about current Bologna-relevant events (seminars, conferences). One can easily recognize the limited institutional capacity of this process, given that not even a permanent secretariat exists (Corbett 2006: 23).

Of importance are also the *official Bologna seminars* that are organized by national educational ministries and other stakeholders. These semi-formal seminars are important fora for international policy formulation. Here experts and practitioners

participate and contribute to the process by discussing and work on distinct relevant topics. For a list of seminars that took place between 2002 and 2007 see Table 11.

As can be observed a lot of actors, both governmental and non-governmental are integrated in the opinion-forming process. This does not apply to the national parliaments that are not involved (Seib 2005), and come only into play afterwards, when the decisions taken at the European level have to be translated into domestic legislation (Senden 2004). This point should not be overlooked when asking why governments prefer this way of coordinating higher education policy at the European level.

10.4 Stocktaking

Clearly the responsibility for the implementation of the goals and action lines agreed upon in the different communiqués rests within the individual member states. Actually there is no mechanism available to enforce the common agreements, even if signatories fail to comply. The only very soft instrument available to stimulate national adaptation is peer-pressure, based on the different stocktaking reports available. Although the stocktaking exercise should - according to Andrejs Rauhvargers the chairman of the stocktaking working group preparing the report for the London conference in 2007 – just have the purpose to inform "where we stand" and not stimulate any "races between countries" (Rauhvargers 2007), it is not absurd to assume at least some impact stemming from the comparison of progress. Bearing in mind the effects of OECD's comparison and benchmarking it is not too surprising that peer-pressure effects, best-practices and learning are also present in the framework of the Bologna Process[111]. Measuring progress in the following of the Bologna conference in 1999 took place at least till the Berlin ministerial conference in 2003 in a very broad and general way. This at least applies to the official Bologna follow-up stocktaking.

To contribute to the ministerial meetings in Prague (2001) and Berlin (2003) background reports were commissioned by the Follow-up group of the Bologna Process, namely the so called Lourtie- and Zgaga- reports (Lourtie 2001; Zgaga 2003).

[111] One expert (Interview 3: 120-130) asserted a general climate change - a kind of "Benchmarking turn" - since 2000 in Europe, concerning the effects of comparison be it Pisa or Bologna-Stocktaking. "There is a climate in which comparisons and honesty is accepted and appreciated" (Interview 3: 130f.).

These reports were occupied more with summing up the main events and outcomes and desired future perspectives of the process itself, than with detailed analysis of what was going on in the signatory states' higher education systems. Already the first report was aware of the need to collect comparable data as a basis for future decision (Lourtie 2001). Lacking own comparable data, these reports and the ministerial meetings itself very much relied on the TRENDS reports from the EUA[112]. In effect, the first TRENDS report (Haug/Kirstein 1999) constituted an important contribution to the ministerial conference in Bologna (see: chapter 11.2.1). Especially till the ministerial conference in Berlin in 2003 TRENDS II and III (Haug/Tauch 2001; Reichert/Tauch 2003) were – besides certain EURYDICE reports[113] – the prime studies that measured the progress of the Bologna member states. The Berlin communiqué officially takes notice of the EUA's contribution.

With the prospects of reaching half-time in the creation of the European Higher Education Area in 2005, ministers agreed at the conference in Berlin in September 2003 to the conduct of an own stocktaking exercise (Bologna Follow-up Group 2005: 35) because "a mid-term stocktaking exercise would provide reliable information on how the Process is actually advancing and would offer the possibility to take corrective measures, if appropriate" (Berlin Communiqué 2003). The Follow-up group was requested to organize this stocktaking process, and to deliver detailed reports before the Bergen conference in 2005, especially on the progress of implementation of quality assurance, the two-cycle system and the recognition of degrees and periods of studies. This request was renewed and the scope of the stocktaking was widened at the next conferences in Bergen and London. With the establishment of a working group charged with the task to carry out the stocktaking exercise in March 2004 the BFUG complied with the minister's request (Bologna Process Stocktaking 2005: 5).

To measure and visualize the concrete progress of individual member states concerning the relevant action lines, the so-called Bologna Scorecard was developed. Building on

[112] At this point still the Confederation of European Union Rector's Conferences and the Association of European Universities.

[113] Already mentioned the Bologna initiative in it's 1999 comparative study "Organization of Higher Education structures in Europe" (Eurydice 1999) EURYDICE did contribute to the stocktaking with the collection of relevant data and the production of several comparative studies that focused on the "national trends in the Bologna Process" . Published before each ministerial conference since 2003 (Eurydice 2003), these studies were well-suited to provide important additional data on the implementation of the Bologna action lines.

similar models like the Lisbon Scorecard[114] or the balanced scorecard, the Bologna Scorecard has criteria and five benchmarks for each action line. These benchmarks are color-coded ranging from "Green", which stands for "Excellent performance" to "Red" which means that "Little progress has been made yet". The developed benchmarks were finally applied by the working group to each participating country. Country representatives were issued the initial scores and they had the chance to comment and review the material (Bologna Process Stocktaking 2005).

The prime data sources on which the whole stocktaking exercise and also the Bologna Scorecard are based are the national reports submitted by the participating countries. Additional data, also due to reasons of validation stemming from EURYDICE, EUA and ESIB is employed too. Nonetheless, the main data sources are the national reports[115]. It is noteworthy in this context that the ESIB "Bologna with student eyes" study is mainly based on a web-questionnaire accomplished by national unions of students (in the 2007 edition of 36 countries) (ESIB 2007: 9). EUA bases it's TRENDS report primarily on an own survey of higher education institutions, including quantitative as well as qualitative methods (Crosier et al. 2007: 14f.).

As can be easily seen the whole stocktaking procedure strongly relies on reliable and valid national reports. Therefore a certain degree of window-dressing is likely to take place. Concerning the scope of this difference between real and reported achievements it has to be noted, that even expert in this field do not share the same assessment and recommend to better look at EUA's TRENDS report[116]. A single but very illustrative example of how the material from EUA and ESIB is handled can be found in the London Communiqué: "Our stocktaking report, along with EUA's Trends V report,

[114] Although in clear contrast to the Lisbon Scorecard, the Bologna Scorecard does not classify countries as "heroes" or "villains" (Bannermann 2001), since it is "not designed to make comparisons between countries" (Bologna Process Stocktaking 2005). Since the only pressure to comply with the action lines stems from these comparisons, it is a little bit strange that they are officially treated as inevitable side-effects.

[115] That were not always submitted on time, and did not always directly answer to the questions that were asked (Bologna Process Stocktaking 2007).

[116] "There is no country that dares to say: no I have not done it, and you go through and everything is green, but if you go and speak to the universities and to the students you see that everything is red eventually. So this is not something to trust. On the contrary, I trust more the TRENDS of the universities, what brings out hundreds of problems" (Interview 2: 374) "There is some degree of window dressing and maybe the countries that say they are dark –green should have had light green" (Interview 3: 200).This differing views also continue concerning the effectiveness of the whole stocktaking exercise (Interview 3: 122f., Interview 2: 402f.).

ESIB's Bologna with student eyes and Eurydice's Focus on the structure of higher education in Europe, confirms that there has been good overall progress in the last two years" (London Communiqué 2007). Even a very brief look into the ESIB report speaking of "implementation à la carte", "superficially implementation" stating big problems in distinct fields (ESIB 2007: 5), unveils that this is not necessarily the case, and that the ESIB report has been read apparently very selectively[117].

Summing up the findings concerning the stocktaking exercise it can be said that, although the measurement of progress has become institutionalized since the ministerial meeting in Berlin and although with the invention of the Bologna Scorecard comparison between countries has become very easy, the whole stocktaking is still a very soft instrument concerning the stimulation of national adaptation. Due to its strong reliance on national reports and selectively consideration of data stemming from other sources there is still room left for a certain degree of window dressing, too.

[117] In spite of this the reports from ESIB or EUA are clearly driven by distinct motivations, too and of course not absolute truths. "In effect, academics and experts, often through their associations, act as new political actors [...] Even education is not immune from this as European-wide associations struggle to achieve for their members information and influence" (Lawn 2006: 282).

11 Explaining the genesis of the Bologna-Regime

11.1 Agenda Formation

"The stage of agenda formation encompasses the emergence of an issue on the political agenda, the framing of the issue for consideration in international forums and the rise of the issue to a high enough place on the international agenda to warrant priority treatment"(Levy et al. 1995: 282)

The Bologna Process did not simply start with the signing of the "Joint declaration of European ministers of education" in Bologna in June 1999 but with the "Joint declaration on harmonization of the architecture of the European higher education system by the four ministers in charge for France, Germany, Italy and the United Kingdom"[118] at the Sorbonne University in May 1998. Therefore the process should be actually named Sorbonne (-Bologna) Process. This is how the process of coordinating European higher education structures is sometimes depicted. It is true that these intergovernmental meetings that took place at the Sorbonne and in Bologna were important "visible starting points" for "action to make the patterns of the national higher education systems more similar across Europe" (Teichler 2006: 455) but clearly the story had not just begun in Paris in 1998. The Bologna Declaration, as well as the Sorbonne Declaration did not come out of the blue. Instead they build upon several European initiatives in this policy field, like the ERASMUS mobility program that started in 1987, the Magna Charta Universitatum from 1988[119] or the Lisbon Convention from 1998 (Langan 2004: 446). Nonetheless the Sorbonne Declaration cannot be regarded solely as a simple continuation of already existing initiatives and programmes at the European level, be it European Union, Council of Europe or other intergovernmental action. This is mainly due to the aim of harmonizing the degrees and

[118] All mentioned main documents can be found at http://www.ond.vlaanderen.be/hogeronderwijs/bologna/.

[119] In many articles dealing with the origins of the Bologna Process the Magna Charta of European Universities that was signed at the 900th anniversary of the Bologna University in 1988, by 388 rectors from universities all over the world, is depicted as one important starting point. Although the Bologna Declaration directly refers to this document, one should not overlook that only one part of the Magna Charta stresses the need for enhanced mobility among students and teachers, accompanied by corresponding measures. With its emphasis of university principles stemming from the 19th century, this document stands "between the times" (Schriewer 2005). In fact the mentioning of the Magna Charta in the Bologna Declaration mainly has to be regarded as an attempt to integrate the academic community that had not been strongly involved in the preparation phase. Not at least because it was the universities that had to implement the action lines eventually.

the cycles. Although discussions about the invention of a two-tier study structure in continental Europe are nothing completely new - since the 1990ies the idea of having similar structures of study and degrees like the Anglo-Saxon countries has become popular. Also due to the fact that foreign students from economically upcoming Asian countries preferred the USA, the UK and Australia - the Sorbonne Declaration came as a great surprise. Not only because of its content. Other countries criticized the four signatory countries for changing that quickly their mind – they had always refused harmonization in discussion in the European council – and their solo effort (Teichler 2005: 89-90). It is also important to stress the point that the original motivations that lay behind the Sorbonne Declaration were completely national ones (Interview 4: 27-30). Of course these interests arose partly out of developments in the European but also the worldwide higher-education environment. Fostering mobility and international competitiveness surely were important stimuli (Hackl 2001a: 105). Nonetheless it were not primarily those common goals that lead to the Sorbonne Declaration, but a parallel of domestic interests among ministers of education of three big European states (France, Germany, Italy), which were caught up and used by the French minister. The right timing (Interview 2:35) and individual leadership in the person of Claude Allègre the French Minister for National Education, Research and Technology therefore did play a role. As "a typical policy entrepreneur, Allègre made the Sorbonne celebrations the opportunity to act collectively" (Corbett 2005: 195). The main reason for this collective action can be identified in the need for European support for national higher education reforms. The next chapter analyzes this national level.

11.1.1 National interests

In France the higher education system faced multiple problems. Besides problems of funding and high drop-out rates especially the dualism of mass universities and grandes écoles created pressure for reform (Corbett 2005: 195). Well aware of the difficulties a reform of the French higher education system would entail, already in 1997 Allègre commissioned a report about reforming the French higher education system (Martens/Wolf 2006: 155). This report "Pour un modèle européen d'enseignement supérieur", known as the Attali-Report (Attali 1998) was finished in February 1998. Besides the demand for a more homogenous higher education system that should help to overcome the cleavage between universities and grands écoles a tiered model is also

recommended. The first stage (la licence) should encompass 3 years, the second (la maîtrise) 5 years and the third (le doctorat) eight years (Attali 1998). What makes this report even more interesting in this context is the explicit demand after a European solution[120]: "une harmonisation des cursus et des modes d'organisation des universités, une politique européenne de l'enseignement supérieur devra émerger" (Attali 1998: 28). The initiative for this "grands chantiers de l'Union pour la prochaine décennie" (Attali 1998: 29) should - of course - stem from France.

In Italy Allégres colleague Luigi Berlinguer - Minister for Public Instruction, University and Research - also faced big problems concerning the Italian higher education system. Especially the enormous rise in student numbers over the last thirty years caused big problems. Due to the mainly unchanged higher education system that could not very well cope with these student numbers, the duration of study lengthened and the drop out numbers increased. In Italy reform was already on its way, since already in 1990 an additional three-year diploma universitario degree had been invented. But this additional degree that did not replace the still existing "laurea" degree was not well accepted by students. So Minister Berlinguer, in office since 1996 tried to introduce reforms. This attempt, turned out to be very difficult, especially due to resistance in the higher education community (Racké 2007: 33).

In Germany the discussions and efforts to introduce higher education reforms have intensified since the beginning of the 1990ies. The discussion encompassed already at this point questions of international competitiveness of German higher education institutions (Eurydice 2005a: 134; Eckardt 2005: 36-42). Jürgen Rüttgers – German Minister for Education, Science, Research and Technology - who started a reform of the Framework Act for Higher Education in 1996, was not only interested in giving universities more autonomy, shorten duration of studies and achieving better completion rates. He also thought about levering the Länder competences[121] and as a consequence

[120] It is noteworthy in this context that "using" Europe as a catalyst for reforms in the national higher education system seems to have longtime tradition in France. After the 1968 student revolts, already Edgar Faure one of Allégres predecessors sought European support for French university reform (Corbett 2005).

[121] In Germany the competences regarding higher education are divided between the federal government and the federal states. The responsibilities for the ongoing business lie mainly in the range of the Länder. According to the constitution or Basic Law (Grundgesetz) the federal government has the competence to lay down general principles for the structuring of the higher education system (Grundgesetz Art. 75). By the amendment of the Basic Law the Federal Government got the power to provide framework

breaking reform blockade (Martens/Wolf 2006: 156). Hence for the German case the struggle for competences between the Federation and the Länder has to be taken into consideration. Regarding the question of a two-tiered system it is interesting to note that Rüttgers also planned the invention of Bachelor- and Master courses, and "already had a law, not yet accepted in his drawers" (Interview 6: 146), that was strongly debated between government and opposition (Die Welt, 14.2.1998), and faced opposition of some Länder governments, too[122] (Racké 2007).

11.1.2 Preparing a first intergovernmental declaration – two-level gamblers at work?

Following the evidence given above the three ministers had not (only) common goals in mind when meeting at the Sorbonne. Instead they mainly initiated this Declaration to use it for domestic reform projects. Basically the concept of two-level games is well suited to capture the underlying dynamics. Situated in a privileged position between the national and the European level national ministers have privileged access to information and enjoy a widened room for maneuver to pursue their own interests (Putnam 1988) to play so called two level games[123]. In this conception states are not being regarded as unitary actors that cooperate at the international level. Also an understanding of national governments/governmental representatives as just being problem-solving oriented honest brokers of their domestic constituencies is neglected here. Klaus Dieter Wolf's (1999) new raison d'état - approach takes up the logic of two-level games and adopts it

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legislation, concerning the general principles of higher education (Eurydice 2005a). These general principles enter into the so called Framework Act for Higher Education (Hochschulrahmengesetz), which was first enacted in 1976. It is important to note, that everything that is not mentioned in the Hochschulrahmengesetz is automatically business of the Länder. The 16 Länder enact their laws on the basis of the Hochschulrahmengesetz and stipulate the details.

[122] Even before the Conference at Bologna in 1999, the possibility to invent study programmes according to the Bachelor/Master structure was provided in Germany with the amendment of the Framework Act for Higher Education (Hochschulrahmengesetz) on 20 August 1998 (BGBl. 24.8.1998 I S. 2190) This was thought of being a kind of test stage (Alesi et al. 2005: 2). This test stage ended in 2002 when Bachelor- and Mastercourses were defined as a standard offer of the higher education institutions.

[123] The concept of two-level games is mainly applied in the context of the European Union most elaborated in the work of Andrew Moravcsik (Moravcsik 1993): Intergovernmental bargaining at the European level also strengthens governments vis-à-vis their home politics. It's the national governments that are "able to take initiatives and reach bargains in Council negotiations with relatively little constraint. The EC provides information to governments that is not generally available. Intergovernmental discussions take place in secrecy […] Domestically, parliaments and publics generally have little legal opportunity to ratify EC agreements […] National leaders undermine potential opposition by reaching bargains in Brussels first and presenting domestic groups with an 'up or down' choice" (Moravcsik 1993: 515). Nonetheless the concept of two-level games can also be used for other international fora in which national politicians enjoy privileged access. See therefore for example (Zangl 1999).

to match cases of self-binding intergovernmental cooperation[124]. Not at least to unveil the undemocratic aspects of these intergovernmental governance structures beyond the nation states. Self-binding cooperation at the international level is used by strategic acting government representatives to widen their domestic room for maneuver concerning the enforcement of their preferred policies (Martens/Wolf 2006; Wolf 1999). Exactly these dynamics can be regarded in the preparation of the Sorbonne Declaration. Especially the French minister for education, science and technology Claude Allégre in spite of claiming to act European (Allègre 1999) was very eager to use Europe as an excuse for reforming French higher education structures. This explains why he was also very active in fostering the Sorbonne initiative. Soon after entering office in 1997 he planned forward to use the 800th anniversary of the Sorbonne as an occasion for an European initiative (Witte 2006: 124). But also German minister Rüttgers and his Italian colleague Berlinguer were in need of a "European excuse" (Interview 6: 134) or at least some "external political support" (Interview 4: 32) for their domestic reform projects. The question why only these three plus the British minister signed the Declaration at the Sorbonne can be easily answered: Because Claude Allègre did only invite them to sign. This can be traced back to his consideration of who the other grand nations were, that were important to get on board, to his personal ties established in the Carnegie Group[125] (Witte 2006: 125), but also to lack of time for consultations with more countries and the conviction that the others would follow as a matter of course[126].

Whilst the two-level picture, or the new raison d'état approach is well suited to explain the motivations of the French, German and Italian ministers to engage in a European cooperation initiative this does not apply to the United Kingdom. The two-cycle system did already exist here. After reforms of the higher education system in the 1990ies, especially the Further and Higher Education Act of 1992 the binary system was abolished and the two systems merged into one (Theisens 2001). Regarding the attractiveness of the British higher education system and its competitiveness it can be

[124] In short, "the term 'new raison d'état' describes a pattern of intergovernmental interaction triggered by transborder interdependence, transnational society-formation and growing domestic pressures. It involves not only self-assertion vis-a-vis other states, but also, at the same time and in complex interconnection with this, a search for external support in securing internal room for manoeuvre" (Wolf 1999: 347). For more on this approach see chapter 13.

[125] "A regular informal meeting of ministers in charge of research in the G8 countries" (Witte 2006).

[126] According to Allègre (2000) quoted from (Hackl 2001a): "Puis nous nous sommes dit: en matière universitaire, si la France, L'italie, l'allemagne et la Grande-Bretagne sont pour, les autres suivront".

stated, that it already was one of the most attractive and competitive system in the whole world. Therefore the British government and its representative Tessa Blackstone the Junior Minister for Higher Education did regard the French (/German/Italian) initiative as a chance to pass over the own reference model to the others (Interview 2: 34). Since it was assumed in the UK that the participation would not entail the necessity to change the own higher education structures, the possibility to directly influence this European initiative and the prospect of an emerging European-wide competition for students and resources (where the own position was assumed as being strong) persuaded Blackstone to join this club (Corbett 2005; Martens/Wolf 2006; Racké 2007).

The declaration itself was prepared by officials of the four countries shortly before the Sorbonne celebration. No officials of other countries or experts from the European Commission were involved in the drafting process (Hackl 2001a: 105). In the draft for the Sorbonne Declaration the 3-5-8 cycle model, as proposed in the Attali report was included, but this was taken out in the final version, not at least due to resistance from the British minister (Interview 6:150-160). Nonetheless this model did cause some confusion[127], and the proximity in time between the publication of the Attali report and the Sorbonne Declaration made these two documents merge into one in the perception of many actors in higher education (Hackl 2001b: 21).

11.1.3 The Sorbonne Declaration

The "Joint Declaration on harmonization of the Architecture of the European Higher Education System" that was finally adopted consisted of three concrete objectives and the common declaration of intent to "create a European area of higher education". The declaration additionally – but aiming into the same direction – demands the "creation of an open European area of higher learning" and the creation of a "Europe of knowledge"[128].

[127] It has to be pointed out that the Sorbonne Declaration did cause confusion not only in this respect, as the following anecdote may exemplarily illustrate: Roberto Mezzaroma, Italian member of the European Parliament wrote to the Commission to inform him about a harmonization of degree courses at Italian universities, and about the structure and length of this project. The answer provided by Mrs. Cresson the former European Commissioner for Education, Research and Science did very clearly show that the Commission was well aware what's going on and where her limits were (1999/ C 325/004).

[128] With the aim to "humanise Europe" (Corbett 2005: 195) the declaration stresses that "Europe is not only that of the Euro, of the banks and the economy: it must be a Europe of knowledge as well".

The three concrete main objectives can be identified in the plea for:

- increased mobility of students and academics
- facilitated student mobility and employability
- a consolidation (improvement) of Europe's international competitiveness through education

The means to reach these goals are lined out broadly and encompass cooperation and progressive harmonization with the restriction to respect the diversities. It is noteworthy that mainly structural changes or reforms, as already implied in the title with the term "architecture" are envisaged. The invention of a two-cycle structure, the use of credits and improved mutual recognition of degrees are highlighted. Concerning the concrete instruments the text remains very vague. "Strengthening of already existing experience, joint diplomas, pilot initiatives, and dialogue with all concerned", is all the Sorbonne Declaration provides in this respect.

Clearly the Sorbonne Declaration has to be regarded as a political statement rather than a binding agreement. The content of this declaration is vague and there is enough room left for interpretation (Hackl 2001a: 105). Nonetheless when analyzing the individual objectives and means it becomes evident that the Sorbonne Declaration is strongly based on established ideas emerging from distinct sources (Corbett 2005: 196): The "European higher education area" has already been proposed as one objective in the SOCRATES program (Hackl 2001a: 107). Other specific ideas such as the credit system and recognition procedures have their sources in programmes such as ERASMUS, TEMPUS (Corbett 2005: 196) and draw on existing technical programmes like ECTS[129] – which is a Commission product originally (Interview 4:180) - or the NARIC-ENIC network[130] (Neave 2002: 186). Concerning recognition the Lisbon Convention of 1997[131] that is also directly mentioned in the Sorbonne Declaration has to be noted too. But not only problems concerning the mobility of students have already been recognized by the European Commission for example in her Green Paper on "the obstacles to transnational mobility" (COM/96/0462 final). Already in the Delors' 1993

[129] ECTS = European Credit Transfer System
[130] NARIC = National Academic Recognition Information Centre; ENIC = European Network of National Information Centres
[131] Convention on the Recognition of Qualifications concerning Higher Education in the European Region (CETS No.: 165).

White paper "on growth, competitiveness and employment" (COM/93/700 final) the connection between competitiveness and education has been made. The employability goal can also be found in this paper. Interestingly the Sorbonne instruments also resemble the action lines outlined in the White paper[132]. In contrast to all these well developed issues taken from other sources the Sorbonne Declaration contains one real innovation: the two-cycle structure. The introduction of this "biggest novelty in European higher education policy for 50 years" constituted in effect also "the glue which would hold the Bologna Process together" (Corbett 2005: 196)[133].

11.1.4 Reactions to the Sorbonne Declaration

As already mentioned above the Sorbonne Declaration came as a surprise and did cause some annoyance, especially in other EU countries that were initially not invited to join this initiative. This is mainly due to two reasons:

1. The declaration did contain the term "harmonization", already in its title. In the international context of higher education this comes near to breaking a taboo. But as Witte (2006: 128) points out this can partly be traced back to the different meanings of "harmonization" in English and French. The connotation of the English term "harmonization" with "standardization" is not present in French[134]. Here "convergence" rather than "unification" is encompassed by this term. Understandably the British minister was heaped reproaches on for signing (Martens/Wolf 2006: 156).
2. The Sorbonne Declaration states in the last paragraph: "We call on other Member States of the Union and other European countries to join us in this objective [...]", which was widely regarded as an affront in multiple other EU countries, that had neither been invited to participate in the preparation nor to join this initiative from the

[132] For example "exchanges of experience and good practices and developing joint projects" (White paper) sounds very much the same like "strengthening of already existing experience, joint diplomas" (Sorbonne Declaration).
[133] Most scholars agree, that this change of degree structures constitutes the essence or core of the Bologna Process (Kehm/Teichler 2006; Zgaga 2005).
[134] As Corbett (2005: 81) shows, difficulties concerning the meaning of the term harmonization (especially concerning the different meaning in English and French) did already occur in the context of the EC's education policy in the 1970ies.

> beginning on. (Interview 5:38, Interview 6: 22-37). In this sense it was interpreted as "an attempt by the big-4 EU countries to impose on all others a single model that would threaten diversity and leave other countries with just the options of complying or being left out" (Haug 2006).

Some countries did join the initiative and follow the invitation to sign the Sorbonne Declaration in the following: Romania, Bulgaria, Belgium, Switzerland, Denmark and the Czech Republic. Some countries (Slovakia, Slovenia, Croatia) intended to sign (Haug/Kirstein 1999). Other countries – although not rejecting the goals and aims of the Sorbonne initiative – wanted to make it clear that this was not the right way reform processes at the European level were started. Especially the other EU countries, mainly smaller countries wanted to signal this to the four, big Sorbonne signatories (Interview 7: 22). When EU ministers for education met during the Austrian Presidency in Baden 23-24 October 1998 for an informal Education Council the Sorbonne Declaration was discussed and the Austrian chair clearly communicated this disapproval to the four countries (Europe Daily Bulletins, No 7329 – 24/10/1998). Nonetheless it was acknowledged that the initiative of the four big countries was at least concerning the content not without reason[135] (Interview 7:135-142). Since the Italian minister Ortensio Zecchino renewed the invitation for a follow-up conference in spring 1999 in Bologna, an idea his forerunner Luigi Berlinguer had already promoted at the Sorbonne Forum (Haug/Kirstein 1999), it was discussed how to bring new life into this initiative (Hackl 2001a: 107-108).

[135] This shift may not come as a big surprise, since not only the big four countries planned to change the structures of their higher education systems. Taking the Austrian case for example, plans to invent a tiered system were discussed even before this meeting (Die Presse 2.9.1998, Der Standard 13.10.1998).

11.2 Institutional Choice

"Institutional choice takes an issue from the point where it becomes a priority item on the international agenda to the point of agreement on the provisions of a specific regime" (Levy et al. 1995: 282)

11.2.1 Preparation and reformation

Among the ministers meeting in Baden there was general agreement to delegate the task of preparing the next conference to a working group established within the meeting of the Directors General for higher education of the EU member states[136] (Interview 5: 62-70). This meeting took place a few days later and a "Sorbonne follow-up working group", compromised of representatives from the Troika (Austria, Germany, Finland), Italy (host country of the next conference), France, the UK, the European Commission, the Confederation of European Union Rectors' Conferences and the Association of European Universities (CRE), was set up (Hackl 2001a: 108). It was agreed that the country holding the EU Presidency, which was at that time Austria should held the chair. Nonetheless after the end of the Austrian Presidency and the start of the German Presidency in January 1999, the German representative did not want to take over the chair. So the Austrian representative still held the chair (Interview 5: 120-125). Hence this time, in clear contrast to the Sorbonne drafting the preparatory process was not only driven by governmental officials. The task of this group, which met four times between December 1998 and May 1999, was to prepare the conference of Bologna. Following the argumentation above it becomes clear that the meeting in Bologna cannot be simply depicted as the successor to the Sorbonne meeting but also as a reaction to it. Already at this point it was acknowledged that the Bologna meeting would encompass a much wider circle of participants and would be based on a wholly new declaration (Witte 2006: 129).

[136] EU member state's Directors General for higher education, have already been meeting twice a year since the German Presidency in 1994: One time usually under participation of the Confederation of EU Rectors' Conferences and the Association of European Universities. Normally this meeting would not have been a joint one (with the Rectors' Conference and the Association of European Universities) but since it was Austria's first presidency there was desire for a more encompassing approach (Hackl 2001a), which was an advantageous proceeding for the future (Interview 5: 69).

In preparation for the Bologna conference a study was carried out by two experts (Jette Kirstein and Guy Haug[137]) that were appointed by the Confederation of European Union Rectors' Conferences and the Association of European Universities (CRE). They also participated in the meetings of the "Sorbonne follow-up group", acting for this purpose as a "Steering Committee" (Haug/Kirstein 1999; Hackl 2001a). With the financial support of the European Commission the project report "Trends in learning structures in higher education" was written by Kirstein and Haug and completed in June 1999. This Trends survey covered countries from the European Union of the Fifteen plus the three additional members of the European Economic Area: Iceland, Liechtenstein and Norway[138]. Their task was on the one hand to provide a database mapping the convergence and divergence of higher education systems, covering degree structures, admission and tuition fees, organization of the academic year and credit transfer systems (Haug/Kirstein 1999). On the other hand the confusion and concern the Sorbonne Declaration had released should be absorbed, and the problem why European coordination was needed should be reframed. This was done in a chapter called "The Sorbonne Declaration of 25 May 1998: what it does say, what it doesn't" (Haug/Kirstein 1999). Here the discussions that followed the use of the term "harmonization" as well as the confusion about a 3-5-8 model as mentioned in the Attali report were clarified. To reframe the problem Guy Haug who is regarded as being very influential at this stage of the preparation process (Corbett 2005: 199) and as the unofficial "author" of the Bologna Declaration itself (Interview 5:139-144), also dwelt on two further issues: European competitiveness on the international education market and the close link to the European labor market (Haug/Kirstein 1999). Summed up Kirstein and Haug's "mission was very much to rescue the Sorbonne Declaration, which had started on the wrong foot" to clarify especially the means with which certain goals should be reached and "to make it less obligatory" (Interview 6: 42-50).

Before the conference in Bologna the working group discussed technical details as well as questions of competences. Invitations were sent to all EU member states and

[137] Both of them are experts in this policy field and are also familiar with Community policies, since they have working experience in the ERASMUS bureau (Hackl 2001b). Here it should be mentioned additionally that it is sometimes assumed that European higher education is framed by only a few experts (Interview 3: 356), and that the European policy space in education is being shaped by a "constant interaction between small groups of linked professionals, managers and experts" (Lawn 2006: 275).

[138] One could suspect this selection of countries as a clear sign of increasing economic rationales determining the agenda. But since the EEA countries did also participate in EU education programmes the "Erasmus-impact" can also contribute to an explanation.

associated countries. Since the Commission representative stressed the point that this declaration should not include activities already performed by the Community but go further, it was discussed if the declaration should be a purely intergovernmental one or a mixed one. This question if Community responsibilities should also be included was not solved in the framework of this working group. Finally a draft of the declaration to be adopted by the ministers was prepared and sent out to all ministries that were invited for feedback. In the following the main questions and comments were summarized (Hackl 2001a: 108). It should be stressed at this point that only EU member states did participate in the preparation. At the same time especially the members of the working group did shape the draft-declaration (Interview 6:24). Although in the end signing, other countries were not involved at this stage (Interview 5: 161-164). So weren't the students. Although being the ones that were primarily concerned by the intended reforms students and student unions were not involved in the preparation process at all. During the meeting at Bologna ESIB representatives were present even though not invited (ESIB 2006; Haug 1999). This non-involvement is also regretted in an own declaration that was prepared during the conference at Bologna called the "Bologna Students Joint Declaration" (ESIB 1999).

11.2.2 The conference at Bologna

The Bologna conference that was held, as the name already implies at the University of Bologna on 18 and 19 June 1999, was divided into two parts. The first day was organized by the University of Bologna in cooperation with the Confederation of European Union Rectors' Conferences and the Association of European Universities. During this "academic" day the first TRENDS study was presented and discussed. Academics and other civil servants from the invited countries discussed in working groups important issues concerning the European higher education space. The results of these discussions were presented to the ministers by the President of the Association of European Universities Kenneth Edwards the following day, the "ministers day", which was the second major part of this conference. Afterwards the ministers did also discuss the draft declaration introduced by the Italian Minister (Hackl 2001a: 108-109). Interestingly discussions about the declaration text, that had been prepared by the working group during the last nine months continued there (Witte 2006: 131). Certain phrases were negotiated and some even deleted in the last minutes before the signing

procedure (Interview 5: 27-30). The ministers therefore met in a "little chamber immediately before the signing to discuss the last controversial questions, before entering the former church where the official signing-ceremony took place" (Interview 7: 120-125, own translation). One of the most important still open-question concerned the role of the European Commission. Although the European Commission was present at the Conference, involved in the preparation of it and also contributing as a major sponsor she was finally kept out (Racké 2007). Especially the French minister Allègre and his colleague Blackstone from the UK, the only original Sorbonne signatories present at Bologna, were very strongly against the involvement of the European Commission (Interview 4: 53-55, Interview 6: 160-164). But also the other EU member states did not want the European Commission to be too much involved. In fields where the EU does not possess competences according to the Treaties the member states did not want to accept Commission intervention. Additionally the Commission was also know for her competence stretching attitude which was not appreciated in an intergovernmental cooperation where the national ministers were themselves looking forward to a widened room of maneuver for national reforms (Interview 7: 175-195, Interview 5: 170-200). Since already the Sorbonne Declaration had been signed by non-EU countries, as mentioned above, and these countries were invited to join from the beginning on, applying EU instruments was not possible (Interview 2: 215-218, Interview 6: 215-220). It is important here to keep in mind that these additional countries maybe were invited to join not at least due to this reason – to keep the Commission out[139] (Martens/Wolf 2006: 157).

The Bologna Declaration about the "European Higher Education Area" finally was signed by 31 representatives of 29 European countries[140], EU members as well as non-EU members. The Flemish Community of Belgium and the German Permanent Conference of the Ministers of Culture in the German Länders (Kultusministerkonferenz) were also represented and signed. Liechtenstein, that is counted as being part of the first round of Bologna signatories was not present because

[139] The connection between the EU/European Commission and this intergovernmental initiative cannot be fully discussed in this paper but will be an important part of the overall project and therefore analyzed elsewhere in detail.

[140] Austria, Belgium, Bulgaria, Czech Republic, Estonia, Denmark, France, Finland,, Germany, Hungary, Greece, Ireland, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Slovak Republic, Sweden, Spain, Swiss Confederation, United Kingdom (Bologna Declaration 1999).

the relevant minister had not been invited unintentionally (Interview 6: 63). Nonetheless Liechtenstein was recognized as a Bologna signatory in the following. Finally the ministers decided to meet again in Prague in May 2001, to assess the progress reached and to discuss further action.

11.2.3 The Bologna Declaration

Building on the Sorbonne Declaration the Bologna Declaration of 19 June 1999 also mentions three main goals and six additional instrumental objectives or action lines (Lourtie 2001: I; Reinalda/Kulesza 2005: 21) as well as the already known declaration of intent to "establish the European higher education area". Likewise the Sorbonne Declaration a reference to a "Europe of Knowledge" is made. The three main goals the Bologna Declaration contains concern:

- international competitiveness
- mobility
- employability

The means that have been formulated very vaguely in the Sorbonne Declaration are replaced in the Bologna Declaration by six more encompassing action lines:

- adoption of a system of easily readable and comparable degrees
- adoption of a two-cycle system (undergraduate and graduate), with a first cycle lasting a minimum of three years
- establishment of a system of credits (like the ECTS)
- promotion of mobility by overcoming obstacles for students and staff
- promotion of European cooperation in quality assurance
- promotion of the necessary European dimensions in higher education

To reach the goals mentioned above and to accomplish all action lines intergovernmental cooperation within the framework of existing competences under acceptance for the diversities was chosen. The Bologna Declaration also contains a time span within the objectives should be reached ("in any case within the first decade of the third millennium") as well as an impetus for follow-up procedure. Therefore in contrast to the very vague Sorbonne Declaration this text is regarded as being "much more of an administrative document" (Hackl 2001a: 110).

As stated above the Bologna Declaration does very much build on the Sorbonne Declaration. This can according to Haug (1999) be noticed in three dimensions: First both documents share the same overall goal, of establishing a European higher education space. Second, both documents are based on joint ministerial action and third, the emphasize lies in both documents on structure rather than content. An additional similarity can be identified in the fact that for the first time the international attractiveness of European higher education is paid attention to (Haug 2006). Nonetheless important differences can be identified, too. They concern on the one hand the drafting procedure and here especially the widened circle of participants – as noted in the previous chapter – but also the content. The text adopted at Bologna does not only state more objectives, they are also formulated more precisely here (Hackl 2001a). Promoting cooperation in quality assurance and the promotion of European dimensions in higher education are new objectives. The focus on quality assurance does very much go back to the TRENDS I (Haug/Kirstein 1999) report (Corbett 2005: 198). The promotion of a European dimension in the end is an objective that has even older roots. Already in a Resolution of the Council from 1988[141] the goal of promoting the European dimension in education was formulated. One more important aspect of the Bologna Declaration should not be overlooked. Although being a purely intergovernmental document based on the joint agreement of national ministers for education, a vague invitation to institutions of higher education to participate in this process in the following can be noticed.

11.3 Operationalization

"Operationalization covers all those activities required to transform an agreement on paper into a functioning social practice" (Levy et al. 1995: 282)

The process of setting up the organizational structure (see: chapter 10.3) mainly lasted from the meeting in Bologna in 1999, until the ministerial conference held in Berlin 2003. Only a few changes happened afterwards: Some members and consultative members were additionally invited at the conferences in Bergen and London. Furthermore the stocktaking exercise was extended and advanced since the Berlin

[141] Resolution of the Council and the ministers of education meeting within the Council on the European dimensions in education of 24 May 1988 (Official Journal C 177, 06/07/1988 P. 0005 - 0007)

ministerial conference (see: chapter 10.4). Interestingly the first attempt to structure the organization of this coordination process took place at the informal meeting of EU ministers on 23-25 September, in Tampere[142]. There the establishment of two groups (a consultative group and a steering group) preparing the ministerial meeting in Prague in 2001 was decided (Reinalda/Kulesza 2005: 21; Lourtie 2001). The fact that it was the EU ministers that took the decision clearly shows that especially EU members are in position to steer the process. This evidence can also be noticed when looking at the role the Presidency of the EU plays in the organization of the follow-up structure (see: chapter 10.3). To avoid long-winded historical descriptions of the organizational development the following three tables have been prepared to visualize the development of the follow-up structure in a nutshell.

Table 2: Follow-up structure between Bologna and Prague

	Composition	**Mandate**
Consultative Group / Enlarged Group	All signatory states, the European Commission, and EUA's predecessor organizations[143]. Since 2000: also the Council of Europe, EURASHE and ESIB as observers.	Coordinate, provide support (e.g. organization of seminars), prepare the next ministerial meeting (e.g. develop draft program).
Steering Group	EU enlarged troika countries (Presidency, the previous and two successive presidencies), the European Commission, EUA's predecessor organizations, and the country hosting the next ministerial conference	Coordinate, provide support (e.g. commission of a specific report), prepare the next ministerial meeting.

(Hackl 2001a; Lourtie 2001; Reinalda/Kulesza 2005; Witte 2006)

[142] see: http://presidency.finland.fi/netcomm/News/showarticle774.html

[143] As already noted elsewhere: The European University Association (EUA) is the is a result of the merger between the Association of European Universities (CRE) and the confederation of European Union Rectors' Conferences that took place in Salmanaca in 2001.

Table 3: Follow-up Structure between Prague and Berlin

	Composition	**Mandate**
Follow-up Group (BFUG)	All signatory states, new participants and the European Commission. Chair: EU Presidency. Observers: EUA, EURASHE, ESIB, Council of Europe.	Develop and monitor the process, draft the next communiqué, arrange official seminars to specific topics.
Preparatory Group (BPG)	Countries hosting the previous and the next ministerial conference, two EU member states, two non-EU member states (these four elected by the Follow-up Group), EU Presidency, European Commission. Chair: Country hosting the next ministerial meeting. Observers: EUA, EURASHE, ESIB, Council of Europe	Plan the next ministerial conference.

(Prague Communiqué 2001; Witte 2006)

Table 4: Follow-up Structure after Berlin

	Composition	**Mandate**
Follow-up Group (BFUG)	All members of the Bologna Process, the European Commission. Consultative members: Council of Europe, EUA, EURASHE, ESIB, UNESCO/CEPES. Chair: EU Presidency. Vice-Chair: host country of the next ministerial conference.	Overall steering of the process. Prepare the next ministerial conference. Coordinate activities for progress, monitor implementation. Prepare reports for the next ministerial meeting.
Follow-up Group Board	EU Presidency, host country of next ministerial conference, preceding and following EU Presidencies, three participating countries (elected by BFUG for one year), the European Commission. Consultative members: Council of Europe, EUA, EURASHE, ESIB. Chair: EU Presidency. Vice-Chair: host country of the next ministerial conference.	Oversee work between BFUG meetings. Responsibilities further defined by BFUG.
Official Secretariat	Personnel provided by the country hosting the next ministerial conference.	Support overall follow-up work. Tasks further defined by BFUG.

(Berlin Communiqué 2003)

With minor changes[144] this follow-up structure persisted since the ministerial conference in Berlin in 2003 (see also: chapter 10.3). As can be noticed, besides the big biennial ministerial conferences, a limited but nonetheless lively follow-up environment and at least some degree of organizational structure have developed. This can be witnessed by the establishment of a now relatively consolidated follow-up and stocktaking activity but also by the surrounding activity. Here the official Bologna seminars (see: Table 11) that are organized either by national ministries or stakeholders, contribute to the strategic further development of the process and serve as important fora for policy formulation in preparation of the ministerial conferences (Witte 2006: 138). Since the ministerial conference in 2003 participation in these seminars is also open to representatives from third countries (Berlin Communiqué 2003). Besides these official Bologna seminars a lot of additional stakeholders' workshops, and conferences take place. The big stakeholder organizations EUA, ESU (former ESIB) and EURASHE hold their main conferences just before the ministerial conferences take place[145]. There also statements directed at the ministers' meetings are adopted[146]. These meetings seem to have become routine in the meantime, which also points at the establishment of the overall process.

Clearly the operationalization stage of regime building actually encompasses more than just the "European" stage. An assessment if the "agreement on paper" has become a "functioning social practice" (Levy et al. 1995: 282), would also entail the analysis of what has happened at the national level. Since the research questions of this dissertation do not encompass the implementation at the national level this exercise has to be accomplished elsewhere[147]. Nonetheless a few preliminary observations will be presented in the following. Concerning one of the main action lines of this initiative – the invention of a tiered system (after the Berlin conference a three cycle system,

[144] In Bergen a few consultative members (Education International Pan-European Structure, ENQA and Businesseurope - the former UNICE) were added to the BFUG (Bergen Communiqué 2005).
[145] 5th ESIB Convention 21-23 February 2003 - 2nd EUA Convention 29-31 May 2003 – EURASHE 13th Annual Conference 5-6 June 2003 => Ministerial Conference in Berlin 18-19 September 2003; 9th ESIB Convention 17-21 March - 3d EUA Convention 31 March -2 April 2005 – EURASHE 15th Annual Conference 28-29 April 2005 => Ministerial Conference in Bergen 19-20 May 2005; 13th ESIB Convention 16-19 March 2007 – 4th EUA Convention 29-31 March 2007 – EURASHE 17th Annual Conference 26-27 April 2007 => Ministerial Conference in London 17-18 May 2007.
[146] See for example: EUA's Salmanaca Declaration, ESIB's Göteborg Student Convention, ERASHE's Vilnius statement for Bergen.
[147] Additional arguments that speak against the analysis of the effects at the national level can be found in chapter 6.6 (footnote 46).

including the doctoral level) – much progress can be detected at the surface. According to TRENDS V (Crosier et al. 2007: 17) 82% of institutions – replying to this questionnaire – reported to have the three cycle system in place compared to 53% in 2003. At the beginning of the academic year 2006/07 this three cycle structure was in place in nearly all signatory countries. Only in Andorra, the German-speaking Community of Belgium and Sweden has not been implemented at all until the beginning of 2007 (Eurydice 2007a: 15). This development is taken as a proof for the advanced stage of implementation of the three cycle study structure (Bologna Process Stocktaking 2007: 2). Going a little more into the details reveals that not even half of the countries involved have fully implemented this three-cycle structure. Due to gradual invention of the new cycles in most countries full implantation will only be reached after a transitional phase of several years. In some countries students can choose between following the new study structure or pre-reform long programmes. Certain studies like medicine are still organized in a single cycle in more than half of the participating countries. Exceptions cover a lot of different studies, ranging form teacher education in Austria to art studies in Poland (Eurydice 2007a: 15-20). A study undertaken by ESU (ESIB 2007) also points to problems concerning access to the second cycle for first cycle graduates favoring Bachelor graduates stemming from the same institution and to suspected increasing gender inequalities (low female participation in the second and third cycle). This study also points out that the invention of the three cycle structure is not accompanied by real curricula reforms in many countries, which may impose negative consequences on the employability of Bachelor graduates (ESIB 2007: 38).

Looking at another important action line – the invention and implementation of the European Credit Transfer and Accumulation System (ECTS) – it can be stated that ECTS was already in place in a majority of countries in 2006/07 and it is also used in a majority of these countries for both the transfer and accumulation of credits (Eurydice 2007a: 25-29). Following TRENDS V (Crosier et al. 2007: 37-39) over 75% of institutions reporting used the ECTS as a transfer system in 2007. Looking beyond these numbers big problems concerning the correct use of ECTS still remain. The TRENDS V study speaks of widespread “incorrect or superficial use of ECTS” (Crosier et al. 2007: 8), ESU points to difficulties concerning the correct measuring of student workload as being the most severe problem in the implementation of ECTS (ESIB 2007: 38). Although these briefly stated observations – that engage with two of the most

prominent Bologna Process action lines – are of course not representative for the whole implantation process in the participating countries, they nonetheless point to two interesting points: First, implementation does take place widespread and it can be surely stated even now this process has overcome the stage of being just an agreement on paper. Second, implementation and its quality differ strongly between countries and/or action lines. It is therefore impossible to generally speak of successful implementation. Nonetheless at least for the European level taken altogether a successful implementation can be stated as depicted above in this chapter.

11.4 Reviewing the hypotheses

Since the last few chapters have discussed and analyzed the regime building process informed by and according to the regime theoretical framework employed, it is necessary at this point to come back to the hypotheses corresponding to the first research question. Hence in the following these hypotheses will be assessed in the light of empirical evidence. The two hypotheses that are engaged with an explanation of the genesis of the Bologna-Regime are discussed separately.

Hypothesis 1a: For successful regime formation the presence of effective entrepreneurial leadership on the part of the individuals is required.

The focus on entrepreneurial leadership stems from Oran Young's institutional bargaining model (Young 1994) and is depicted in a comprehensive way in chapter 6.4.2. As noted there, entrepreneurial leaders are individuals that have besides their catalytic role in these regime building processes, the skill to overcome the danger of logjams in negotiations by (re-)framing the issues at stake, inventing new institutional arrangements and broker the overlapping interests of the parties involved. Additionally they may also serve as agenda setters concerning the form in which an issue is presented at the international level. Entrepreneurial leaders are not representatives of major states (Young 1991, 1994). Concerning the regime building process that has been depicted in the chapters above, it is important to distinguish between other forms of leadership and entrepreneurial leadership. In the first phase of the regime building process the French minister for education Claude Allègre did play an important role especially concerning the setting of the agenda, since it was him that initiated the Sorbonne Declaration, and

brought the idea of coordinated European higher education systems and especially coordinated, tiered study structures on the agenda again. Therefore he has already been attributed "leadership" (Corbett 2005) but it is not the kind of leadership meant by this hypotheses. As an agent of a major state he could be classified as a "structural leader" (Young 1991: 288). Although important in setting the agenda this is not the kind of leadership we are interested in here. Nonetheless at a later point in this process real entrepreneurial leadership can be discovered.

It is here important to remember that the initiative that lead to the signing of the declaration in Bologna, did not proceed uncontested. There has not been a smooth transition between the Sorbonne initiative and the signing of the Bologna Declaration. Some aspects of the Sorbonne Declaration were widely criticized and did cause annoyance among other European countries that had not been invited to join this initiative from the beginning on. Especially the fact that the declaration contained the term "harmonization" and that this initiative looked like an attempt of the big four countries to impose their envisaged model on other countries made it impossible to carry on without stopping (see chapter 11.1.4). Hence in this preparatory phase for the Bologna conference EUA's predecessor organizations delegated the task of working out a study mapping divergence and convergence of European higher education systems to Guy Haug and Jette Kirstein. Additionally the Sorbonne Declaration should be "improved" (Corbett 2005: 197), by clearing and absorbing the confusion and concern it had produced. Guy Haug performed this reframing task in his chapter "The Sorbonne Declaration of 25 May 1998: what it does say, what it doesn't" (Haug/Kirstein 1999). Additionally to his contribution in clearing the confusion about the 3-5-8 model (see chapter 11.2.1) Haug also made the connection to European competitiveness on the international education market and the link to the European labor market. He was also very concerned with getting quality assurance written into the Bologna Declaration (Corbett 2005: 198). As already mentioned elsewhere Haug's "mission was very much to rescue the Sorbonne Declaration, which had started on the wrong foot" to clarify especially the means with which certain goals should be reached and "to make it less obligatory" (Interview 6: 42-50). Additionally to this reframing task Haug had been very active in "selling" these outcomes and compromises to the national ministers and

ministries in Europe[148]. One should remember that at this point it had not been clear how many would actually sign (Interview 6). The engagement did work out and at the ministerial conference in Bologna in 1999 29 countries did join the initiative. Summing up it can be stated that the role of Guy Haug acting as an entrepreneurial leader had been at least very helpful in a difficult phase of this process. He was active in reframing and reshaping the problem to overcome difficulties and foster compromise. This evidence does support hypothesis 1a that assumes entrepreneurial leadership to be one necessary factor for successful regime formation. Nonetheless another very important fact should not be left out here: It had been two stakeholder organizations (the Association of European Universities and the confederation of European Union Rectors' Conferences) that originally demanded, and the European Commission that financially supported this first TRENDS study, which also underlines the importance non-state actors and international organizations play in the process of successful regime building.

Hypothesis 1b: An international regime is created mainly by a small group of actors whose ex ante power position can be regarded strongest.

If one was to regard the Bologna Process as a hundred per cent successor to the Sorbonne Declaration the mentioned hypothesis would be strongly supported. But since this is not the case as already demonstrated in this dissertation (see chapter 11) this issue deserves further investigation. Coming back to the institutional choice tree (see Figure 2) introduced in chapter 6.5 (Jupille/Snidal 2006), I argue that the Sorbonne initiative may be better understood as an example of ad hoc cooperation rather than an example of institutional creation. The immediateness and the vagueness of this declaration support this assessment. Although the Sorbonne initiative that did really just encompass a small group of powerful actors did strongly influence the agenda setting phase, it cannot be concluded that the whole Bologna-Regime which is in my view residing much lower on the institutional choice tree, was mainly created by these actors. The involvement of universities' stakeholder organizations exemplarily mirrors this fact. This also applies to the preparation of the Bologna conference by the "Sorbonne follow-

[148] The important role Haug played in this phase has also been underlined by other deeply involved actors (Interview 5: 140-150, Interview 3: 357).

up working group" that was not only composed of representatives of the Sorbonne signatory countries but also from Austria (which held also the chair), Finland, the European Commission and EUA's predecessor organizations. As can be regarded a lot more actors were involved in this phase of the regime building process than just the four Sorbonne signatories: Representatives of national ministries, of the European Commission, stakeholder organizations and experts in the field of higher education. It therefore can be concluded that also smaller states (Interview 5) and also universities through their representatives (Interview 2) did play a role at least in the preparatory phase.

It is difficult to assess the impact all these different actors had on the regime building process it should nonetheless not be overseen that the Bologna Declaration did finally very much build on the Sorbonne Declaration invented and shaped by the four big countries (see chapter 11.2.3). Therefore it can be reasoned that the UK, Germany, Italy and France did have disproportionately high influence concerning the content of the Bologna Declaration, although it was mainly other actors[149] that furthered the preparation process until the Bologna conference (Interview 4:46). Notwithstanding that they were at least partly involved in the preparation of the Bologna Declaration, for many of the other – manly smaller – states it had been a question of jumping on to the bandwagon, or not. As a consequence a clear me-too effect can be discovered. To be part of this initiative and not being left out was a very important motivation especially for smaller states to join in[150]. This bandwagoning effect can most obviously be regarded given the fact that even countries joined whose reform plans did originally go into other directions than the tiered system[151]. Summing up the main points of this discussion it becomes clear that, although the four big countries did have very high influence concerning the content of the Bologna Declaration one cannot reason that it was only them who did create this regime. The influence and activity of other actors

[149] On the one hand the other (smaller) European Union countries declaring their disapproval of the Sorbonne solo run in Baden (see chapter 11.1.4), on the other hand the diverse Sorbonne follow up group members.

[150] The data stemming from the e-mail survey underlines this point (Interviews 8, 11, 15, 16, 17). Additionally it is clear that the chance of getting European support for domestic reforms was as attractive to these countries as it had been for the Sorbonne initiators in the beginning (see interviews 11, 19).

[151] Here a good example is Austria where shortly before the Bologna initiative the "Universitätsstudiengesetz 1997" (BGBl. 48/1997) was adopted, which did contain the maintenance of the "Diplomstudien" - in contrast to a tiered BA-MA system. Since it was clear that the mainstream was moving in the other direction jumping on the bandwagon too, did seem inevitable (Interview 7: 46-55).

especially in the preparatory phase but also at later stages (see chapter 11.3), do not support this hypothesis.

11.5 Summary

Since the question how the Bologna-Regime did develop has been depictured in a comprehensive way, it seems useful to concentrate on the explanatory aspects: Why did this European regime aiming at a cooperation regarding the structures of higher education systems emerge?

It has been shown that although the intergovernmental meetings at Bologna and at the Sorbonne surely were the most visible corner stones of this cooperative attempt the following development cannot be reduced or even explained by just looking at these two conferences. Instead the Bologna Process should be regarded as a crystallization of pre-existing trends and not as an isolated phenomenon. The emergence of a European labor market, increasing interdependences in higher education fostering an emerging higher education market, increasing student numbers and mobility as well as already existing European initiatives (e.g. ERASMUS, Lisbon Convention) in this policy field constitute the background for the initiative. Although fostering mobility, employability and international competitiveness were important stimuli (and advertising slogans as well) it should not be overlooked that finally it was the domestic interests of some European governments that really got the ball rolling.

The parallel of domestic interests among ministers of education of three big European states which were caught up and used by the French minister, the right timing and individual leadership in the person of Claude Allègre the therefore do explain why the cooperation at the European level did begin in the first place (Chapter 11.1). This cooperation at the international level can be interpreted as an act of strategic government representatives to widen their domestic room for maneuver concerning the enforcement of their preferred policies (Chapter 11.1.2): In this case national reforms of the higher education systems (Chapter 11.1.1).

Although it would be a misinterpretation to regard the Bologna Process as being just a successor to the Sorbonne Declaration of the four big countries, some continuity can be

experienced (Chapter 11.2.3). It soon was acknowledged by other governments that the initiative of the four big countries was at least concerning the content not without reason. The possibility to reform their own systems with the support of a European initiative and some kind of bandwagon effect concerning the two-cycle structure (Interview 7: 50-55) do explain the continuation of this initiative (Chapter 11.2).

Regarding the two hypotheses that have been developed to explain the emergence of this regime it is interesting to note that the empirical evidence supports the first one, stressing the importance of entrepreneurial leadership in the creation of a new regime. The second hypothesis that saw the creation of a regime mainly due to a core group of powerful actors could not be supported. Anyhow the disproportionate influence of these powerful actors concerning the content of the Bologna Declaration could be asserted. Altogether it is useful to remember for future research projects engaged with the explanation of regimes building, that multiple actors take part in this process and a restriction on just a few powerful actors narrows the view too much.

12 Explaining the form of the Bologna-Regime

The chapters above have engaged with the question why and how the Bologna-Regime did emerge. The following paragraphs engage with answering the second research question. Therefore in this chapter research question 2 – how can the institutional design of the Bologna-Regime be explained? – will be worked on. The division into question 2a and 2b will also be continued here. Since the necessary background facts, a detailed description of the Bologna-Regime as well as an analysis of its genesis have already been incorporated in this dissertation, this chapter will proceed in more focused way. To avoid unnecessary redundancy, the answering of the research questions will be structured by the respective hypotheses. This focus on the hypotheses that will each be analyzed in accordance with the empirical evidence, allows a structured and compact presentation of the results.

12.1 Why does this cooperation take place outside the EU?

Concerning the question why the Bologna Process does take place outside the European Union, one could just refer to the lacking treaty base for questions of higher education structures (art. 149/1 TEC). But bearing in mind the Commissions' experience, the extensive EU activities in this policy field, and also the upcoming "soft law" in the framework of the EU like the Open Method of Coordination it needs a little bit more explanation. When it comes to explaining the choice of international institutions ex post it is important to include the prior institutional status quo (chapter 6.5). For this case of cooperation in the field of higher education the task of mapping the existing institutional environment has already been performed (chapter 9). There it is shown that concerning matters of higher education besides the European Union, the Council of Europe, UNESCO and the OECD are the main institutions actively engaged. It is in my view nonetheless no overestimation to treat the European Union as the focal institution concerning the wish to further coordinate structures of higher education in Europe. This is due to the EU's steadily growing impact in this policy field. Especially the successful action programmes dedicated to fostering mobility exemplarily mirror that fact. Here it is interesting to note that these programs also contributed to the overall need for more and closer coordination (chapter 9.1). Besides this thematically closeness the overall coordination capacity of the European Union also has to be taken into consideration.

Hence treating the EU as the focal institution for an attempt to coordinate structures of higher education in Europe can be well argued for, since "focalness" applies when an institution "has worked well for similar problems in the past" and is regarded as the ""natural" forum for dealing with a particular cooperation problem" (Jupille/Snidal 2006). Here it is noteworthy that an institution can promote its own "focalness" concerning a problem. A proceeding in which the EU, especially the European Commission has longtime experience.

Framed this way it is a legitimate question to ask why the existing focal institution has not been used, since the use of this existing focal institution normally is the least costly resolution[152] (Jupille/Snidal 2006: 22). The two hypotheses 2a and 2b that are stated in the following give different but not conflictive answers to this question.

Hypothesis 2a: Lack of congruence concerning membership between the EU and the group of actors engaged in the cooperative initiative aiming to coordinate the higher education systems, leads to the dismissal of the EU as the appropriate institutional solution.

Comparing the map which shows the countries that joined the Bologna initiative between 2003 and 2005 with an actual map encompassing all European Union countries makes the decoupling between membership in the EU and in the Bologna-Regime that has taken place in the meantime very obvious (see: Figure 12). But besides such nearly manipulative visualizations it is helpful to remember that already the Sorbonne Declaration was signed by non- EU countries. Importantly these countries were invited to join the Bologna initiative from the beginning on. Among the Sorbonne Declaration signatories were the then non-EU member states Romania, Bulgaria, the Czech Republic and Switzerland. Therefore applying EU instruments was hardly possible (Interview 2: 215-218, Interview 6: 215-220). It is important here to keep in mind that these additional countries maybe were invited to join not at least due to this reason – to keep the European Commission out (Martens/Wolf 2006: 157). There is also evidence that at least some of the non-EU countries present at the conference in Bologna did

[152] This does not mean that the focal institution is regarded as being the optimal solution for solving the cooperation problem but since costs and uncertainty increase down the institutional choice tree (Figure 2), the actors involved have strong incentives to accept it as a kind of "good enough" solution (Jupille/Snidal 2006).

actively engage and ask for a solution outside the European Union (Interview 20). Altogether these findings do support hypothesis 2a, that this asymmetry concerning membership in the European Union and the group of actors wishing to coordinate their higher education policies, lead to a dismissal of the EU as the appropriate institutional solution. Regarding the role EU members do play in this process (e.g. EU Presidency holds in chair in BFUG: see 10.3), and the role the European Commission has taken in, in the meantime one should nonetheless not overvalue the role and influence of non-EU members. Clearly issues dealt with in this process like student mobility do not stop at national borders. Mobility in higher education also transcends the borders of the European Union. Nonetheless it can be seen in related fields that EU solutions are sometimes even then possible when non-EU members participate, as is the case with the action programmes[153] (see chapter 9.1). Hence this "diverging membership" hypothesis alone is not enough to explain the fact that a solution outside the framework of the EU has been created.

Hypothesis 2b: When powerful actors have alternative institutional preferences the EU, will not be selected as the appropriate institutional solution.

With the signing of the Sorbonne Declaration the big four EU countries France, Germany, Italy and the United Kingdom already unveiled their open preference for a coordination of their higher education systems outside the EU framework. This did not change until the Bologna conference. Hence the French minister and his colleague from the UK, the only original Sorbonne signatories present at Bologna, were very strongly against the involvement of the European Commission (Interview 4: 53-55, Interview 6: 160-164), in Bologna too. During the ministerial conference especially the French minister Allègre strongly opposed the Commission (Interview 6:224). But also the other EU member states did not want the European Commission to be too much involved. Because she was known for her competence stretching attitude which was not appreciated in an intergovernmental cooperation where the national ministers were themselves looking forward to a widened room of maneuver for their individual national reforms (Interview 7: 175-195, Interview 5: 170-200). Hence "it had been a

[153] But not only in this field: The Schengen agreement, where the non-EU members Iceland, Norway and Switzerland participate serves as a good example.

central and important job to have the Commission on board but not in the lead" (Interview 5: 174f, own translation). Although other actors like the representatives of national governments preparing the conference are regarded as not having been without any influence, the Sorbonne signatories are regarded as the main actors concerning this question (Interviews 10, 11, 17, and 19). They did not have to face very much opposition stemming from other country representatives who themselves regarded a solution outside the EU as the superior institutional choice. Nonetheless hypothesis 2b is supported, as demonstrated above.

12.2 Why does this cooperation solely base on soft coordination?

In this chapter the soft form of the Bologna-Regime is discussed and analyzed from several different theoretical perspectives. Again the respective hypotheses provide the guiding direction in the following.

Hypothesis 3a: Governments choose soft coordination when no compromise about the concrete goals exists.

Concerning the question why the whole process bases on soft coordination, the hypothesis developed by Schäfer (2005) in the context of the European Employment Strategy does not hold in this case. Governments may choose soft cooperation when no compromise about the concrete goals exists, but regarding the Bologna Process this is simply not the case. The Bologna Declaration focuses much more on specific goals and concrete content than on methods and the measurement of progress[154]. Although the stocktaking exercise has in the meantime also become more institutionalized, it is as already stated elsewhere (chapter 10.4) still a very soft instrument. Especially the strong reliance on national reports and the selectively consideration of data stemming from other sources still leave some opportunity for window dressing. Regarding the content it can be stated that especially the formulation of the action lines do mirror a common interest. Clearly as already stated elsewhere it was the interest in domestic higher education reforms that started this initiative in the end. But this does not mean that the goals and action lines on which the ministers in Bologna agreed are not to be taken

[154] Actually the Bologna stocktaking exercise is a very soft instrument, mainly basing on national reports. Here countries are not ranked and labeled "heroes" or "villains" as in Lisbon case. For more on the stocktaking exercise see chapter 10.4.

seriously. The fact that the whole process had been originally very much informed by a desire for domestic higher education reform (see chapter 11.1) does not necessarily preclude that the goals and action lines of the Bologna agreement were at least for a certain proportion in line with these reform attempts[155]. Besides the aim to facilitate mobility and increase the overall European competitiveness with the invention of the two-cycle system, there surely existed secondary, additional goals like the aim to shorten the length of studies[156]. Nonetheless the large part of the goals and action lines were quite uncontested, and already established since stemming from European Union's action programmes[157]. Summing up the main points one can not conclude that the national governments did choose to coordinate the higher education systems in a very soft way, substituting content with procedure as Schäfer (2005) suggests. Therefore at least in this case hypothesis 3a is not supported by the empirical evidence. Since the hypothesis does not state that in reverse, when compromise about the goals exists governments will always choose harder forms of cooperation, it would be a big misinterpretation to regard the hypothesis as falsified. However, soft coordination seems to have more virtues than just to plaster nonexistent compromise about certain goals.

Hypothesis 3b: Governments choose soft coordination to widen their room of maneuver and to minimize unintended consequences, as far as possible.

Following this view governments agree on specific goals but try to avoid very formalized and binding structures and procedures. They enjoy a widened room of maneuver the less formalized an institution is, and the less binding its coordination instruments become. This widened room of maneuver that governments mainly enjoy due to their privileged position in a two- (or multi) -level environment (see chapter 6.4) can be very helpful for them (or also individual ministers) to overcome domestic reform

[155] As already mentioned, in Germany as well as in France the invention of a tiered study system had already been on the reform agenda.
[156] The suspicion (or hope – depending on the source) that the Bologna Declaration was used by national governments only to restructure the system to shorten the time of study has not been only expressed by student's representatives (Evelyn Lehmann, president of the Swiss students union in: The Guardian, 1.10.2003; Winfried Pohl, professor at University of Nuremburg in: The Guardian, 6.7.2004; Sigurd Höllinger, former Austrian Director General for higher education, federal ministry for education, science and culture in: Der Standard, 26.5.2001).
[157] "If I take the Bologna Declaration's six points, five of these six are cut and paste from Erasmus" (Interview 3: 52-53).

logjam. Unintended consequences in contrast refer to the fact that all actions are mainly taken under incomplete information. Agency losses, unequal distributional benefits but also changes of preferences may occur (Elster 1989; Menon 2003; Pierson 1996). Hence actors learning from past experiences may decide trying to avoid these unintended consequences. The choice of soft coordination instead of harder forms can therefore be interpreted as a strategy to avoid these unintended consequences, at least to decrease the frequency and gravity of accidents (see chapter 6.7). Hence the question concerning this hypothesis is, if the governments involved in the Bologna-regime building process, did take into account these considerations.

Following the discussion of hypothesis 3a above, at least the precondition that there was agreement on specific goals is met. Regarding the question if the fear of unintended consequences did play a role in the considerations about how this coordination should be framed, it is not easy to come to a definite answer. Presumably unintended consequences of other initiatives in this policy field (maybe also in other ones) did influence the actors. It has already been discussed why this initiative does not take place in the European Union but surely also experiences with extensive ranking and benchmarking for example in the OECD context, that has been very influential (see chapter 9.2), maybe counted as relevant factors at this. Nonetheless it is difficult to measure this fear of unintended consequences. Neither the expert interviews, nor the e-mail survey suggest that it did play a role in the process. In contrast the widened room of maneuver that can be used for national reforms did play a role, indeed. As has been shown in the respective chapter of this dissertation (11.1.1), there already had been strong interest in using a "European" solution for domestic reforms in the first phase of this process. This did not change in the following and at the Bologna conference many ministers, that had not been present in the first round at the Sorbonne, saw their possibilities regarding their own national higher education reform plans[158]. Since higher education systems are constantly under reform (Interviews 9, 13), it is not too astonishing that in many countries reforms were already planned before the Bologna

[158] That this strategy did work out can be seen in many newspaper articles that blame "Bologna" for changes in their national higher education structures even if these changes never were included in the "Bologna package" (e.g. Der Standard, 21.6.2000, 8.10.2005; Die Presse, 21.03.2002; The Times Higher Education Supplement, 19.9.2003). Additionally there has been nearly no article focusing on the fact that this initiative is not binding in the end (Süddeutsche Zeitung, 23.1.2004). Bologna is "done", and all the reforms that have taken place since 1999 are reported to go back to this initiative. Not only in scientific contexts coincidence is often mistaken for cause – a helpful mistake for the national ministers that are in position to claim the inevitableness of their individual reforms.

conference. Interestingly a couple of them already included the change of degree systems[159] (Interview 11, 12), a goal that surely was easier to implement with European support. Nonetheless it was clear from the preparation phase for the Bologna conference on, that too much EU involvement (see above) and central steering was not what was desired, since central steering and rigorous follow-up would again have undermined the national rooms for maneuver (Interview 5: 78). Summing up the findings state above it is clear that governments were in fact influenced by their wish for widened room of maneuver concerning the form of this cooperative attempt. Although no argument has been found against the second part of hypothesis 3b that unintended consequences should be minimized by using soft forms of coordination, no empirical evidence has been found to support it. As a consequence hypothesis 3b should be reformulated and simply encompass the first part: Governments choose soft coordination to widen their room of maneuver. Formulated this way the hypothesis can be regarded as being supported.

Hypothesis 3c: When uncertainty and sovereignty costs are high governments prefer softer forms of legalization.

This hypothesis draws on the two concepts uncertainty and sovereignty costs. For Abbott and Snidal (2000) uncertainty is a problem of incomplete contracting. "In fact, given bounded rationality and the pervasive uncertainty in which states operate, they can never construct agreements that anticipate every contingency" (Abbott/Snidal 2000: 433). Soft legalization provides more than one possibility to deal with this uncertainty[160]. Sovereignty costs as used in this concept cover a broad range of dimensions (see chapter 6.5). To the first concept – uncertainty – nearly the same does apply like to the concept of unintended consequences. Although it is presented very logical in the concept of Abbott and Snidal (2000), no evidence could be found in the expert interviews and in the e-mail survey that uncertainty did play a central role, or that

[159] This is for example also true for the Austrian case. As a consequence of the Sorbonne Declaration the invention of Bachelor studies was broadly discussed and planned (Die Presse 2.9.1998, 8.10.1998, 22.10.1998, 2.4.1999, 10.4.1999, 22.5.1999, 9.6.1999)

[160] In fact agreements can be softened on each of the three dimensions invented in this concept: obligation, precision, and delegation. Hence dealing with uncertainty may lead to different outcomes: Agreements may be precise but not legally binding, or legally binding but not precise and without much delegation (Abbott/Snidal 2000).

it was even part of the individual ministers considerations[161]. Regarding the other concept – sovereignty costs – it has to be noted that for most of the actors involved, this discussion had already been settled with the signing of the Maastricht treaty in which the Communities competences concerning questions of higher education had been limited mainly to the provision of supplementary actions. Why the EU framework had additionally not been appropriate for this coordination attempt has already been discussed above. Additionally the field of higher education is still regarded by the majority of experts as a very sensitive field, closely connected to national history and culture (Interviews 2, 3, 4, and 5), and therefore the give-up of sovereignty is also strongly rejected. It is additionally noteworthy in this context that not everywhere in Europe the higher education systems are organized centrally[162] (see chapter 8.3). Following the discussion above it can be stated that the concepts contained in hypothesis 3c also do not contribute too much to the discussion here. No evidence has been found that uncertainty (that is also a concept not easy to catch) did play a pronounced role in the discussion about the Bologna-Regimes' institutional form. Since the question of sovereignty had been already discussed and settled in the Treaty of Maastricht, this concept simply did not play a role in itself. If it would have been considered in the discussions, one can surely assume that it would have strengthened the drive towards a soft coordinated solution.

Hypothesis 3d: Enactors decide about which form an institution takes.

Here cannot be much added to the findings of the discussion of hypothesis 2b above, that focuses on powerful actors institutional preferences to explain why this initiative does not take place in the European Union. Since the Sorbonne signatories can be regarded as the relevant enactors in Gruber's (2000)sense (see chapter 6.4.3), the notion

[161] Following one expert involved the ministers meeting in Bologna "did not realize what they were signing. [...] It was a meeting of their peers. They did not pay much attention, what was in [the Bologna Declaration]" (Interview 6: 64-70). Although other actors involved do not fully agree with this statement: "I think at least most of the ministers knew what was going on" (Interview 7: 112-123, own translation), this proceeding nonetheless shows that questions of uncertainty or the care for unintended consequences were not very pronounced – at least at the ministerial level.

[162] For example the responsibility for decision making in the higher education system in the UK is not concentrated in any single agency, and higher education institutions still enjoy a high degree of autonomy, which is a very prominent and traditional characteristic of the university system in the UK. Decision making is shared among a range of public, quasi public and independent agencies[162] (OECD 1997). These agencies are sometimes recognized "formalised intermediary or buffer bodies" (Kogan/Marton 2000: 104).

that these powerful actors had great impact on the decision about the institutions form holds here too. The expert interviews and the e-mail survey support hypothesis 3d that assumes the enactors to have the main say concerning the form an institution takes. There is evidence that especially the Sorbonne signatories, had an interest to coordinate their higher education policies outside the European Union in a very soft and non-binding way, as already stated in the previous chapter. Nonetheless it should be noted here that in its strictness hypothesis 3d presumably goes a bit too far. Although the primacy of the powerful founding actors, the enactors concerning the choice of an institutions form should not be neglected here (Interviews 2, 12, 17, 19, 20), the role of the other governments has to be taken into consideration, too. Again, especially the representatives of national governments preparing the Bologna conference are regarded as having had at least some influence (Interviews 10, 11, 17, 19). On the other hand it is clear that the enactors with their preference for a soft coordination of higher education structures did not have to face very much opposition stemming from other governments, which themselves regarded a soft solution that granted them enough room for maneuver as the superior institutional choice. Taken altogether hypothesis 3d should be reformulated stating that it is *mainly* the enactors that decide about which form an institution takes. Framed this way the hypothesis is supported by the empirical evidence.

12.3 Summary

The last two chapters have discussed and analyzed the research questions engaged with the (soft) form of the Bologna-Regime. Besides the lack of treaty base – that surely is one important explanatory factor that cannot be left out – especially the institutional preferences of the most powerful actors (in this context the Sorbonne signatories Germany, Italy, France and the UK) did provide an explanation why this coordination of national higher education policies does not take place in the framework of the European Union. Besides this the fact that countries did participate in this initiative from the beginning on, that were and still are not members of the EU does also contribute to answering this question. But since especially European Union members did and do play an important role in this process, the influence of this "asymmetry concerning membership in the EU and the group of actors wishing to coordinate their higher education policies"-factor on the dismissal of the EU as the appropriate

institutional solution should not be overvalued. Other actors that are regarded to have had at least some impact and influence like the representatives of national governments preparing the Bologna conference, only reinforced the trend to a solution outside the EU framework, since the other governments themselves did prefer a solution outside the European Union.

The second question that asks why this cooperation is based solely on soft coordination has been discussed from several different theoretical perspectives in the chapter above. Some of them can contribute to an explanation but some of them cannot. The claim that governments choose soft coordination when no compromise about the concrete goals exists does not hold in this case, since this initiative focuses much more on specific goals and concrete content than on methods and the measurement of progress. Hence soft coordination seems to have more virtues than just to plaster nonexistent compromise about certain goals. Although often mentioned and mainly very logically presented in theoretical concepts engaged with the discussion of institutional form or design, there has not been found evidence that uncertainty and unintended consequences did play an important role in this case. This does not only go back to the fact that it is difficult to detect and measure fear of unintended consequences or the impact of uncertainty in institution building processes. Apparently uncertainty did not even play a role at all in the ministers' considerations. Regarding the assumption that concerns about possible sovereignty costs did lead to a very soft institutional solution it has been shown that this discussion had already been settled in the discussions about the role of higher education in the Treaty of Maastricht. Hence although one can assume that if sovereignty costs had been considered this would have strengthened the drive towards a soft coordinated solution, these questions simply did not occur here.

Taken altogether one can summarize that it had been mainly (but not exclusively) the enactors, the powerful founding members that decided about the form of this institution. They opted for soft coordination, in contrast to more binding and harder forms. Since governments, due to their privileged position in the two-level environment, enjoy a widened room of maneuver – which is the bigger the less formalized an institution is, and the less binding it's coordination instruments become – they do of course consider this advantage in situations of institutional building. So it is true that governments opt

for soft coordination to widen their room for maneuver, which has been the case in the building up of the Bologna-Regime.

13 Assessing the democratic legitimacy and quality of the Bologna-Regime

13.1 Introduction

Questions about consequences and effects of distinct regimes and their institutional form could deal with multiple issues and include various perspectives, ranging from measuring the overall effectivity to questions about the effect on certain actors involved. As already mentioned (see: chapter 4), this dissertation does however focus on the question about the consequences for the democratic legitimacy of governance. This is important because at the international level there exist serious problems and deficits that can be exemplarily summarized as follows:

"The input of citizen's interests is no longer guaranteed by elections, since non-elected actors enter the arenas of policy making. In structures of governance where decisions are not made by majorities but emerge from bargaining and arguing, effective outputs are difficult to achieve. Among these problems, the thorniest issue concerns accountability in political processes that are mostly informal, not very transparent, often dominated by elites and experts, and provide the actors with opportunities to shift the blame to other decision makers"(Benz/Papadopoulos 2007a: 275).

Besides the fact that I regard a focus on democracy as a very crucial aspect, the analysis of international institutions has too often a considerable bias towards stressing the positive sides of international cooperation[163], whilst neglecting the "dark side of intergovernmental cooperation that has always been present – the democratic deficit that results from the internationalization of governance" (Wolf 1999: 334). This condition is undesirable, since governance beyond the nation state should not only be analyzed concerning its effectiveness but with regard to its legitimacy and democratic quality too. In international relations these two aspects – effectiveness and democratic legitimacy – often stand in a problematic relationship (Wolf 2000: 23). Hence not only gains of cooperation but also possible democratic deficits and problems should be discussed.

Although most of the theoretical literature occupied with questions of democracy, is situated either at the national level or is engaged with the European Union's democratic

[163] Interestingly there exist even some articles that stress international regimes' possible (future) contribution in fostering democratization and global/cosmopolitan democracy (Bohman 1999; Samhat 2005).

deficit(s)[164], some scholars have recognized the growing importance of governance beyond the nation state and the need to discuss aspects of democracy also at this level. In the following of this chapter I take these approaches as the logical point of departure[165] and work out the main democratic deficits and problems of governance beyond the nation state. As a next step a rough framework for analyzing democratic deficits beyond the nation state will be developed, including the relevant benchmarks that allow for a useful discussion of the concrete case. Finally the Bologna-Regime itself will be assessed, using this rough framework.

13.2 Democracy beyond the nation state: Problems and deficits

First of all it is important to emphasize the fact that the perception and identification of problematic aspects and deficits of democracy (not only in the international context), do very much rely on the underlying theoretical foundations employed. Put in other words, it depends on the glasses we use if we are even able to see problems or if our lenses totally fade them out. These theoretical choices also determine which kind of problems we are likely to see and which we are not[166]. The employment of an intergovernmentalist point of view certainly solves many problems of democratic legitimacy in advance, by mainly stressing the role of democratically elected national governments as legitimate representatives of national interests in the international system. Nonetheless even for disciples of this theoretical school some problems may occur. In the next section of this chapter the main problems and deficits identified in the relevant literature will be discussed briefly.

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[164] Actually there exists a lot of literature concerning the democratic deficits of the European Union, from very different views ("The picture which scholars draw about democracy in the EU depends upon the manner in which they characterize its political system" (Benz/Papadopoulos 2007c: 15)). For an overview about the main arguments see for example: (Thomassen/Schmitt 2006).

[165] A more fundamental and far-reaching discussion of democracy itself and theories of democracy cannot be delivered in this dissertation. See therefore the relevant literature, for example: (Sartori 1997; Schmidt 2000).

[166] The discussion about the democratic deficit of the European Union may serve as a good example here: See for example (Moravcsik 2002) vs. (Føllesdal/Hix 2006).

It follows that one should state very clearly which theory or approach one employs[167]. Nonetheless when assessing one empirical case, this commitment to just one theory leads to the problem described above, namely the possible disregarding of problematic aspects and deficits not covered by this chosen theory. A solution to this problem can be found in the literature engaged with the empirical assessment of democratic quality. These approaches work out indicators and questions that can be used for a systematic assessment of democratic quality. I will build on these approaches to work out a framework that can be used to assess the democratic legitimacy or in a broader sense the democratic quality of the Bologna-Regime.

Altogether I regard the next steps as an important part of this analysis because this bulk of problems and deficits prevents us to be overoptimistic and unrealistic concerning democratic legitimacy beyond the nation state. It reminds us that "the structural factor of the nature of international society remains as a parameter, limiting the extent to which democratic control might be possible" (Smith 1994: 215) and that "it is necessary to be realistic about setting democratic criteria and to avoid falling victim to the myth of "democratic omnipotence"" (Zürn 2000: 94). "However, recognizing the limits is no reason for not trying to reach them" (Smith 1994) and "it is equally important from a critical perspective not simply to adjust normative standards to political reality without comment" (Zürn 2000).

13.2.1 Lack of demos

One of the most fundamental critiques posed in this context builds on the lack of a real demos at the international level. Hence some scholars question if it is even possible to achieve democratic processes beyond the nation-state. They argue that democratic legitimacy is only possible within the framework of a demos[168]. Since there does not exist a demos at the European/international level yet, (and is additionally not very likely to emerge in the near future) democracy is, according to this view not possible.

[167] One problem in this context is the fact that prior to a discussion of questions concerning the democratic legitimacy of governance in the international context, a definition of democracy itself has to be developed, since the standard model of democracy in the nation state cannot be simply applied here (Benz/Papadopoulos 2007c: 4). This poses a challenge to traditional democratic theory, which mainly treat "the state as a kind of analytical ceiling to inquiry" (Smith 1994: 193). Though "fundamental processes of governance escape the categories of the nation state the traditional national resolutions of the key questions of democratic theory and practice are open to doubt" (Held 2003: 522)

[168] Concerning this argument see for example: (Greven 1997; Kielmansegg 1996).

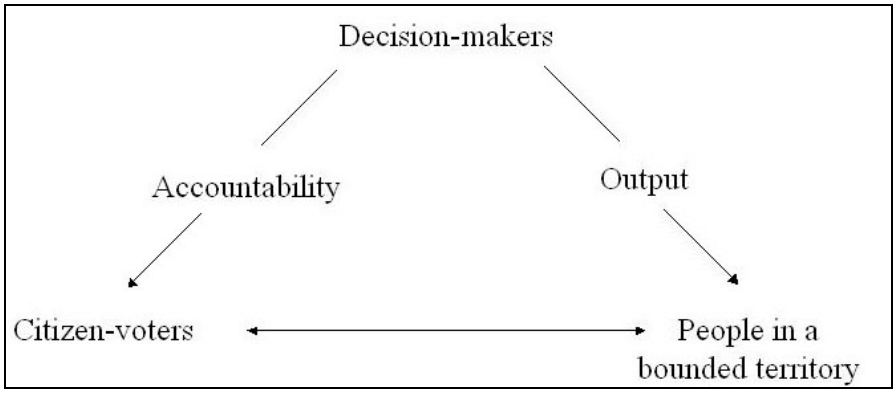
Nonetheless, following Zürn (2000: 101) "the potential for democratic processes beyond the nation-state must not be ruled out as a matter of principle; rather, it indicates that such processes are in their initial stages of development". He emphasizes, that "the boundaries of a demos are not given but are politically defined" (Zürn 2000: 99) and that for now "democratic governance beyond the nation-state must manage without a fully developed, civilly constituted sense of identity comprising all four aspects[169] of a demos" (Zürn 2000: 109). Hence congruence should be employed as the appropriate normative criterion "All those affected by a denationalized issue must be represented in the process of international policy formulation" (Zürn 2000: 101). The last point is an important one and leads to the next problem and possible deficit.

13.2.2 Conflict with the principle of symmetry and congruence

One apparently unavoidable problem of state foreign policy is its conflict with the so-called principle of symmetry and congruence (Wolf 2000: 21). In short this principle states that: "Deficits in democratic legitimation arise whenever the set of those, involved in making democratic decisions fails to coincide with the set of those affected by them" (Habermas 1999: 49)[170]. It is at this point possible to distinguish between input-congruence and output congruence (Zürn 1998: 237): input-congruence means the congruence between those affected by a decision and those that have impact on the decision making process. Output congruence refers to the "overlap between the polity and the territory it controls" (Eriksen/Fossum 2007: 15). Or as Held (1995: 224) puts it: "symmetry and congruence [...] are assumed at two crucial points: first, between citizen-voters and the decision-makers whom they are, in principle able to hold to account; and secondly, between the 'output' (decisions, policies etc) of decision-makers and their constituents – ultimately 'the people' in a delimited territory" (see: Figure 7).

[169] See (Zürn 2000), 99-100.
[170] Only few scholars challenge this symmetry principle. See for example: (Agné 2006).

Figure 7: Democratic political community?



Source: (Held 1995: 224)

13.2.3 Lack of accountability

A recent contribution to the question of assessing democracy at the international level, rooted in a broader context stems from Benz and Papadopoulos (2007b). They place accountability in the center of their argumentation: "While it could be argued that effective outputs can be produced by deliberation among experts or within narrow circles of actors, decision-makers must also be subject to control. Accountability allows those subject to decisions to react to the outputs of governance, and it compels the responsible decision-makers to anticipate these reactions. By linking the representatives to the represented, accountability becomes the central issue of democratic legitimacy from a normative point of view" (Benz/Papadopoulos 2007a: 275). This is neither the place to discuss the different concepts of accountability nor their different types and specifications[171]. Hence summing up, at its core the concept of accountability describes a relationship between two sets of persons: "A is accountable to B when A is obliged to inform B about A's (past or future) actions and decisions, to justify them, and to suffer punishment in the case of eventual misconduct" (Schedler 1999: 17). Although citizens should be able to throw the rascals out by voting them out of office (Powell 2000: 47), this electoral accountability is not always easy to achieve and especially a problem when the intergovernmental level comes into play, since it is even complicated enough for voters to evaluate governmental performance inside individual nation states. Whilst federal systems or divided governments make it more difficult to identify

[171] E.g. Political – legal – financial – administrative – (ethical) accountability / Horizontal – vertical accountability / Internal – external accountability (Schedler 1999; Schmitter 2004a).

responsibilities, intergovernmental cooperation does even worsen the problem for voters to find out the truth[172] (Cutler 2004: 19).

Another very problematic – but in my view indissoluble – aspect of political action that transcends national borders is taken up by the concept of external accountability. Especially in an international or even transnational context internal accountability has to be complemented by external accountability[173]: "Since governance regularly cuts across the boundaries of institutions or territories of governments, internal accountability has to be complemented by external accountability [...] Decision-makers and those scrutinizing their decisions have to consider effects going beyond their jurisdiction if they seek democratic legitimacy" (Benz/Papadopoulos 2007a: 276). Especially the deficits in external accountability lead to a lack of input legitimacy: "The problem for legitimate governance beyond the nation state is to improve on external accountability, to make sure that the various governance bodies- from international regimes to public-private partnerships and cooperative arrangements among non-state actors – can be held responsible by those who are affected by their decisions and rules" (Risse 2007: 195).

This critique surely points to an interesting problem of democracy at the international level. Nonetheless it should be remarked, that in an international system with increasing interconnectedness, where decisions and actions affect increasingly more people, a possible solution to this problem is even hard to imagine.

13.2.4 Dominance of national governments

It is not a very new insight that mainly national governments participate and dominate policy making at the international level. Especially the tendency that governments dominate legislature in foreign and defense policies is a well know issue[174]. Since the

[172] "It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall" (Hamilton 1788).

[173] The distinction in internal and external accountability can shortly be described as follows: "Actors are internally accountable to those whom they formally represent. External accountability refers to those who are affected by decisions but who are not involved in formulating mandates of controlling decision-makers" (Benz/Papadopoulos 2007c: 19).

[174] There is a tendency that governments dominate legislature in foreign and defense policies. "Because of the relative lack of public interest in foreign and defense policies, these come under far less parliamentary scrutiny than applies to domestic issues. Even when there are debates or enquiries by committees, the government has a formidable trump card in the use of the term 'national interests' [...] An added advantage possessed by governments is their role in controlling the flow of information [...] This means

number of issues that are nowadays handled at the international level has steadily increased, this governmental dominance does now apply to more than just these two policy fields. One should hereby not forget that the governments' unique position (acting on different levels, superior information) opens the possibility for strategic use and abuse and points to a democracy deficit (Zürn 1996: 31, 2000: 103). Additionally their officials' accountability is only indirect (Benz/Papadopoulos 2007c: 18). Sometimes the position that intergovernmental agreements do not pose a problem for democracy if the participating governments are democratically legitimized and voting bases on unanimity is taken up. But this is only true from a merely formal point of view, since the factual scope of action for the sovereign is reduced to choose between acceptance and refusal (e.g. ratification of an international treaty by national parliaments). The aim for a continuity of foreign policy (a field that widens more and more) and high political costs in case of refusal further bias this choice (Wolf 2000: 25).

Here the question arises if a de-governmentalization of governance beyond the state and the increase of non-state actor's participation could contribute to a solution of legitimacy problems of international governance. Nonetheless the answers to this question cannot be too optimistic. Hence private contributions to legitimate and effective governance beyond the state are regarded as supplementary but not substitutionally (Wolf 2007). These actors can contribute to improved input- and output- legitimacy only if specific conditions are met (Benz/Papadopoulos 2007a: 279). Non-state actors have their value in enhancing transparency of international governance with their information activity. Nonetheless it should not be overlooked that the participation of private actors can generate a democratic deficit itself due to the selectivity of their inclusion[175] or the organization of these actors themselves (Benz/Papadopoulos 2007a).

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that opposition parties, or even members of the government party, simply do not have access to the kind of information necessary to reach informed judgments; they may even lack the information they require to ask the right questions. This has fundamental implications for the ability of parliamentary bodies to oversee policy-making in these areas" (Smith 1994: 209).

[175] This "problem of selectivity is evident at the international level, where NGOs are criticized for conveying ‚Northern' norms while local populations are absent from the stage" (Benz/Papadopoulos 2007a). The same applies when the inclusion of "stakeholders" is demanded. "Who decides about exclusion and inclusion and, thereby, who the ‚stakeholders' are concerning a particular problem?" (Risse 2007)

In his new raison d'ètat[176] approach Klaus Dieter Wolf (1999; Wolf 2000) goes even further in his critique of possible threats to democracy caused by governmental dominance. This approach builds upon the assumption that governments are strategic actors that have an interest in themselves and do not only act as honest, problem-solving agents of their constituencies. It takes up government's unique position, situated in a two-level environment between the domestic and the international sphere. To widen their room of maneuver at the national level, they enter into mutually binding arrangements at the international level[177]. Hence governments can use self-binding intergovernmental cooperation to paradoxically increase their autonomy (Wolf 1999). It is important to notice that obviously questions of effective governance do play a role in these intergovernmental governance arrangements, at the loss of some external autonomy. But self-commitments as a part of these, can contribute "to manipulate the domestic context by enhancing the internal autonomy of the executive – within the framework of largely non-transparent decision-making processes in which options for involvement by non-governmental actors are at best selective and are always subject to state review" (Wolf 1999: 341f.). Hence international agreements that entail a mutual restriction of external autonomy can have two positive effects for governments. On the one hand their problem-solving capacity may be increased, on the other hand they may regain room for autonomous action at the domestic level (Wolf 1999: 342). As a precondition to this strategy clearly some conditions have to be fulfilled first: state actors must be able to commit themselves. Hence the first step is to create "a polity with extended and adequately protected governmental options" (Wolf 1999: 342). If such an institutional setting is at hand, "consensus in substance among governments about a particular program (policy) and about the strategy to realize it (politics) [is necessary]. Such a substantial consensus is most likely to be reached in situations where a certain

[176] Wolf (2000: 33-55) dismantles the concept of a priori definable or even natural interests of states and a consequential raison d'ètat. The concept of *new* raison d'ètat highlights the fact that raison d'ètat has always been an inward-oriented governance technique, too.

[177] This is not a very new strategy since "in the context of an international system based on state sovereignty, states ultimately aided one another in their efforts to secure the greatest possible degree of autonomy vis-à-vis their particular societal environment by posing military threats to one another. In world society, where they are challenged by an increasingly internationalizing society and by the disjuncture between the economic geography of globalization and the territorial political geography, governments do the same thing by voluntarily entering into mutually binding arrangements. Intergovernmental self-commitment enables them to re-establish their claim to regulate economic activities and to manipulate the domestic context at the same time" (Wolf 1999: 335). The total account of this limitation of external autonomy and increase of internal autonomy may result in an overall increase of autonomy and room of maneuver – of governments (Wolf 2000: 63).

policy would imply high domestic costs" (Wolf 1999: 342). The existing network of international institutions can be used by governments to fend off growing societal pressure on their autonomy for action. They might delegate tasks to international institutions, knowing that only they themselves have access to these institutions, contrary to parliaments, sub-state and other non-governmental actors. Hence governments gain a platform detracted as far as possible from non-governmental actors, to put through their envisaged programs (Wolf 2000: 91f.). Two remarks still have to be made. First, it is important to note that the new raison d'état approach does not only state that governments aim at increasing their national room of maneuver. Two-level bargaining can be used in both directions (Wolf 2000: 89). Second, this approach does not claim that all intergovernmental self-commitments root in this governmental strategy: "Issue-specific international agreements may well have their origin in sincere problem-solving efforts, or even in pressures from civilian actors" (Wolf 1999: 348).

Summing up, according to the new raison d'état approach the problem for democratic governance is, that governance beyond the state – which is to a large part controlled by national governments that can act according to the logic described above – is increasingly becoming more important. More issues and problems are dealt with at this level and can therefore be removed from societal debate and from revision (Wolf 1999: 347f.).

13.2.5 The Janus-faced role of international institutions

Besides their beneficial role as catalysts and brokers of cooperation, international institutions are often accused of being undemocratic and therefore illegitimate. In fact international institutions form Janus-faced entities concerning questions of democratic legitimacy: Given that many problems cannot be solved at the level of the individual nation states and that many goals can no more be reached by theses formally independent nation states themselves due to surrounding conditions outside their sphere of influence (Zürn 1998: 238), problems of output legitimacy[178] emerge at this national

[178] Due to the fact that many approaches that aim at the analysis of governance beyond the nation state and its democratic legitimacy, build on the distinction between input- (throughput-) and output-legitimacy, a few words will be spent thereon. The distinction originates in the "complex" theory of democracy program developed by Scharpf (1970; 1999), which combines empirical and normative traditions of theories of democracy. One of its main strength is the fact, that it does besides description and explanation also focus on the evaluation of current state and potential from a normative-analytical point of view. This theory is sensitive to strengths and weaknesses of democracy (Schmidt 2003: 168).

level. With the use or the creation of international institutions the former problems may be solved but the problem of democratic legitimacy has only shifted from the national to the international level, since international institutions can at best claim indirect democratic legitimacy at the moment. The fact that they "tend to be highly responsive to national governments" (Nye 2001) cannot only be interpreted in favor of them. I also do not agree, that "highly technical organizations may be able to derive their legitimacy from their efficacy alone. But the more an institution deals with broad values, the more its democratic legitimacy becomes relevant" (Nye 2001). Building on the model of input- and output legitimacy (see: Footnote 178), Nye does not take into account that even if problems may *seem* to be highly technical they may be nonetheless highly politicized under the surface and entail important consequences[179]. The more problems that are dealt with by international institutions or broadly spoken settled through inter-state agreements, and the more important these problems become "the more political decisions are withdrawn from the arenas of democratic opinion-formation and will-formation – which are exclusively national arenas" (Habermas 1999: 49). This leads to a durable weakening of democratic legitimacy, which is not always very obvious (Habermas 1999).

This "complex" theory of democracy considers the input of the political system – in some fields the throughput – and the output. Whereas the analysis of input (and throughput) informs about procedures of will-formation, decision-making and conversion structures of democracy, the analysis of output serves to describe, explain and advance the quality of governance. Throughput encompasses all features and procedures of a political system that forward, filtrate, peter out or transform (into products like legislative proposals) the input (Schmidt 2003: 153). Thus throughput-legitimacy is "concerned with the quality of governance procedures" (Wolf 2007: 208) In other words: the input-oriented perspective stresses the "government by the people", the output-oriented side emphasizes the "government for the people" (Scharpf 1999: 16). "Input legitimacy concerns the participatory quality of the decision-making process leading to laws and rules. Those who have to comply with the rules ought to have an input in rule-making processes. 'Output' legitimacy refers to the problem-solving quality of laws and rules" In democratic systems, both sources together ensure the legitimacy of the political o order" (Risse 2007: 185) There exists a tension between these two forms of legitimacy. The more weight the output-oriented side of legitimacy gains the less parliaments are able to control their governments (Schäfer 2006a: 195). It is also important to recall that "what has been called input legitimacy and output legitimacy in comparative research on democratic regimes may vary across political cultures and regimes, but no regime could completely neglect one of the two dimensions of legitimacy and still call itself democratic" (Greven 2000: 54).

[179] In the field of higher education questions of quality evaluation or assurance and accreditation may serve as a good example to underline this argument. Even if a European-level solution is demanded by experts in this policy area (Haug 2003), it may not be too surprising that the participating countries did set up their own national accreditation systems or agencies themselves due to the fact that the accreditation of their higher education institutions is not only a technical issue.

13.3 Analytical framework

After having outlined and discussed some – of course this list is exemplarily and not exhaustive - of the main problems and deficits of democracy beyond the nation state with a focus on international institutions, this chapter aims at the establishment of a framework that can be used to assess the concrete case. Following the blueprint outlined in the introduction of this chapter the main benchmarks or yardsticks will be worked out. Since the answer to this research question is an admittedly important but still not the only part of this dissertation, this will be accomplished in a compact and brief way. Anyway, due to the increasing occurrence of softer forms of cooperation at the international level questions of their democratic legitimacy or their effects on national democracy offer an interesting and actual field for further research. In the following some actual approaches that engage with the assessment of democratic legitimacy or in a broader sense of democratic quality are discussed. Benchmarks for the assessment of this particular case – the Bologna-Regime – will partly base on useful benchmarks developed in these approaches.

Although surely not the first one (e.g. Dahl 1971) to engage with the assessment of democratic quality Beetham (1994) systematically approaches this issue with the invention of his model for democratic audit[180]. The main idea of this model is to assess the condition of democracy in a single state. This task is not an easy one, since it is neither clear from the outset which auditing standards can be employed usefully nor which kind of democracy is actually meant. Hence the "project of a democratic audit, then, not only requires a clear specification of what exactly is to be audited. It also requires a robust and defensible conception of democracy, from which can be derived specific criteria and standards of assessment" (Beetham 1994: 26). The sheer amount of conceptions and definitions of democracy and their contestation (which should not surprise us, since "defining democracy is a political act" (Saward 1994: 7)itself) points to the difficulties connected with this task. Nonetheless following Beetham (1994: 28), all conceptions and definitions of democracy have at least a small consensual core, which can be identified in the two "related principles of *popular control* and *political equality*" which may also serve as useful "guiding thread of a democratic audit"

[180] For a critical review about the instrument democratic audit its modifications and applications to certain cases see: (Kaiser/Seils 2005).

(Beetham 1994: 28). This core definition has to be fulfilled in any system claiming to be democratic[181]. Therefore "the view that democracy is an essentially contested concept is wrong, but it is a boundedly contested one" (Lord 2007: 75). Clearly, to serve as useful and even measurable criteria for assessment these principles – "popular control over public decision making and decision makers" and "political equality or respect and voice between citizens in the exercise of this control" (Beetham 2002) – have to be broken down and specified. Hence a set of so-called mediating values is identified that enable the realization of the two principles in practice: accountability, authorization, solidarity, participation, responsiveness, representation, and transparency (Beetham 2002: 11-12). These values in turn can be used to assess how democratic institutions work in practice[182]. As can be seen this approach builds on a qualitative rather than a quantitative assessment of democracy, incorporating the context in which the respective institutions are embedded (Beetham 1994: 31). Instead of using a dichotomous scale (democratic/non-democratic) a continuum is used. Connected to this it is important to mention, that the assessment of democracy with certain indicators and scales still remains a judgment not a measurement! Since this model works in the assessment and comparison of democracy at the level of states, it has been modified and taken as starting point for similar projects.

In a recent publication Lord (2004) for example, adapts Beetham's (1994) approach to allow for a systematic democratic audit of the European Union. Taking the common complaints about the European Union's democratic deficit as a point of departure (without neglecting their validity), he delivers – according to himself – the first attempt to "apply democratic audition to the EU, or, indeed, to any process of governance beyond the state" (Lord 2004: 1).

In their search for adequate criteria to measure democratic legitimacy of soft modes of governance in the EU – a field very similar to this one – Borrás and Conzelmann (2007) identified four main yardsticks: Parliamentary involvement, societal input, transparency, deliberative quality. It is at this point important to remind that Borrás and Conzelmann

[181] With this definition the institutional fallacy of declaring the political system of one state (e.g. the USA) as basis for assessment (Abromeit 2002: 191) is avoided.

[182] The next steps are the definition of requirements to be met, that these mediating values become effective (see therefore the table on page 12 of (Beetham 2004) and questions that allow for a comparison (how much/how far?) are worked out (Beetham 2002).

also mainly focused on input legitimacy and that some of their criteria are difficult to measure empirically, as they themselves admit (Borrás/Conzelmann 2007: 546). Nonetheless these yardsticks provide a good starting point. In this project I will also concentrate on aspects of input-legitimacy, since I do not share the view, that output-legitimacy can sufficiently substitute the input side[183]. Additionally it is not possible to assess the problem-solving quality of certain provisions without detailed measurement and analysis of their effects and effectivity, a task that can due to several reasons not be accomplished in this dissertation[184]. Hence the focus of the analysis lies on the input- (and throughput-) side.

Building on the concepts discussed above a comprehensive assessment of the democratic quality of the Bologna Process will be presented in the next chapters of this dissertation. The question of how to assess democratic quality and legitimacy of this kind of international institution has already been discussed above. This leads to the development of benchmarks or criteria that allow for a useful evaluation of the Bologna-Regime. The fact that answers given to questions of democratic quality are value judgments and not the result of rigid measurement does not preclude theoretical considerations and the development of reasonable evaluation criteria. Drawing on the concept of democratic audit (1994; Beetham 2004) and the approach of Borrás and Conzelmann (2007) some principles have been identified that can be regarded central: Accountability, authorization, participation, responsiveness and transparency. Requirements for these principles and evaluation criteria in the form of central questions have been developed and included too. Principles and criteria that can either only be adopted inside a state or are simply not empirically measurable in this case have not been taken up here. Table 5 summarizes this assessment scheme that will guide the further evaluation of the Bologna-Regime. In my opinion this is a useful and practicable tool that permits a reasoned judgment about the Bologna-Regimes democratic quality. Surely I admit that this is only one possible approach among others and that other

[183] Clearly a democratic political system needs both. In every democratic political system some fields stand outside the sphere of political decision making exposed to majority rule (Schäfer 2006a), which should increase the efficiency of this system. Independent central banks may serve as an example here (Scharpf 1999). Nonetheless a democracy cannot solely rest on government for the people (output-legitimacy) since „according to this [...] there are no criteria to distinguish a well-performing democratic system from a dictatorship delivering the output that people want“ (Thomassen/Schmitt 2006). “Citizens want to be informed, to be involved, and to have their concerns taken seriously in democratic politics; it is not just better politics “for the people,” it is also “by the people”” (Greven 2000).

[184] See also: Footnote 46.

principles and/or evaluation criteria could have been used, too. The result of this assessment will consist of informed judgments that allow the depiction of an overall tendency.

Table 5: Assessment scheme for democratic quality

Democratic principles	Requirements	Evaluation criteria – Central questions
Accountability / Authorization	Clear lines of accountability; Control of elected over non-elected executive personnel;	How much ex-post parliamentarian control exists? Can decision-makers be held responsible? Do there take place real discussions of results in parliamentary fora?
Participation / Responsiveness	Rights and capacities to participate; Accessibility of decision makers; Deliberative quality;	To what degree concerned citizens have equal access and a chance to participate? How much response is there to societal demands? How much real public debate about the content exists? To which extent do parliamentarians participate in the decision-making process? Is the deliberation open concerning the policy substance? Are final decisions reached by arguing and convincing or by bargaining?
Transparency	Openness to public scrutiny;	To what extent are the decision-making process and the results traceable by the public? How much media-coverage can be detected? To what extent monitoring, reporting and verification procedures in the implementation phase exist?

13.4 Democratic legitimacy and quality of the Bologna-Regime

13.4.1 Accountability and Authorization

13.4.1.1 Can decision-makers be held responsible?

Clearly the most important decision making body of the Bologna-Regime is the Conference of European ministers responsible for higher education. Here ministers for higher education, biannually convene with their peers and adopt the communiqués and declarations that further the overall process (see: Chapter 10.3). These ministers clearly can be held responsible for their actions by their national parliaments. This can cause problems because of information asymmetries, low overall transparency (see: Chapter 13.4.3), limited chance to participate in the process for parliamentarians (see Chapter 13.4.2) and minister's opportunities for two-level gambling (see chapter 13.2.4). However, these governmental advantages do not preclude the *possibility* that they are held responsible for their actions taken at the European level.

Apart from these big events that are held only every two years the Bologna-Regime's day-to-day business takes place in two other bodies, the Bologna Follow-Up Group (BFUG) and the BFUG Board. Here the main work that is necessary for the further development of this initiative is accomplished. This encompasses the preparation of the ministerial conferences and the communiqués as well as monitoring activities concerning the implementation (see: Chapter 10.3). The members of these two bodies are mainly officials of the national ministries that can therefore be held responsible by their ministers. Additionally to these national officials a representative of the European Commission is also a member of the BFUG and of the Board. In the BFUG voting takes place. This does apply for determining the place of the next ministerial conference. Nonetheless voting in this forum raises several procedural questions. Apart from questions of majority and quorum it is also contestable if there should be one vote per country or two. This would help countries with more than just one education system (Belgium) or more than one representative in the BFUG, due to the allocation of rights and duties between the different levels (Germany, Bosnia and Herzegovina). These issues were discussed in detail before the voting for the country to host the ministerial

conference in 2009 took place in the Board and in the BFUG[185]. Still the European Commission is allowed to vote too, which poses a problem since this proceeding favors EU-member countries that participate against the other Bologna Process members[186]. Although it is strange enough that the Commission has a vote in a European initiative that does not take place in the EU framework this issue does also raise questions of accountability. The Commission can be held responsible for her actions by the European Parliament, in which not all the Bologna Process members are present, since they do not belong to the EU.

Taken altogether the Bologna-Regime suffers an eminent European Union-bias that was not present from the beginning on, but increasingly crept in. This started with the first attempt to structure the follow up process, which took place during an informal meeting of EU ministers in Tampere, 1999 (see: Chapter 10.3). Looking at the actual organizational structure of the Bologna-Regime does further strengthen this impression. Hence the respective EU Presidency chairs the BFUG. The so-called Troika (actual, preceding and following EU Presidencies) also forms together with the host country of the next ministerial conference and three elected (by the BFUG) members the Board. This bias and the strong involvement of the European Commission (besides her financial support that is broadly welcomed) are also viewed critically from national experts of non-EU countries (Interview 13, Interview 20) that cannot hold the Commission responsible for her actions in the Bologna-Regime. What should not be overlooked nonetheless is the fact that, voting does not take place very often in the BFUG. The issues about which voting does take place are additionally not of far-reaching consequences (mainly about the place of the next conference and about new members of the Board). A similar conclusion could be also drawn concerning the tasks of the chair. Summing up the main points it is noteworthy that some gaps concerning the possibility to hold the decision-takers responsible exist. Nonetheless the main decisions are taken in the ministerial conference and clearly here the ministers can be held responsible by their national parliaments.

[185] See: BFUG9 3b, BFUGB13 9a, BFUGB13 9b (http://www.dfes.gov.uk/londonbologna/)
[186] Admittedly these non-EU members also benefit from the Commission's financial support.

13.4.1.2 Do there take place real discussions of results in parliamentary fora?

A study undertaken by Gornitzka and Langfeldt (2005: 13) reports that "Parliament and parliamentary hearings as important arenas where national discussions with respect to the Bologna Process have taken place". Since this conclusion is simply based on statements of a restricted number of members of Education International this cannot really be counted as a proof that the results of the discussions and deliberations on the European level are really discussed in the national parliaments. Hence to answer this question the parliamentary discussions of three Bologna member states have been analyzed[187]. Interestingly the first two years after the Bologna Declaration itself in none of the three countries a parliamentary debate focused on this issue. Table 6 clearly shows that this issue had not been discussed very often in none of the three countries. In the UK there was nearly no debate at all, which can be maybe deduced from the belief that Bologna did not entail any changes to the British system. Germany had the most discussions about this issue. This fact mainly mirrors the struggle about competences in the field of higher education between *Bund* and *Länder*[188].

Table 6: Parliamentary debates engaged with the Bologna Process

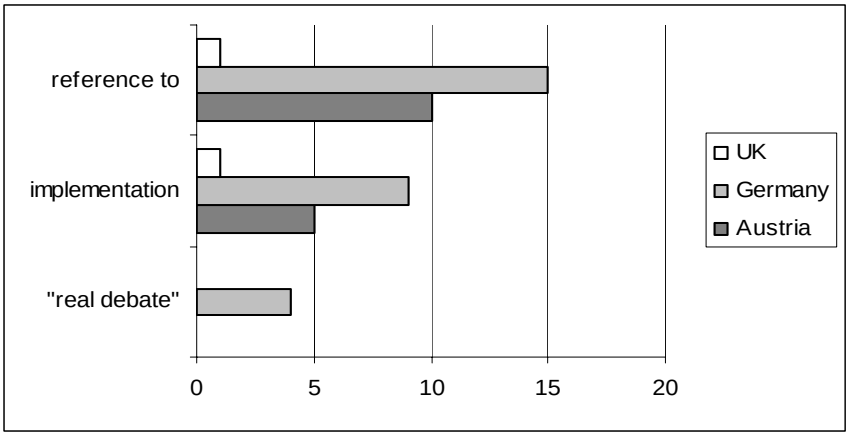
	2001	2002	2003	2004	2005	2006	2007
Austria	1	1	0	4	5	2	2
Germany	0	0	5	8	6	1	8
UK	0	0	1	0	0	0	1

[187] For the purpose of this question the parliamentary archives of Austria (http://www.parlament.gv.at/), Germany (http://www.bundestag.de/) and the UK (http://www.parliament.uk/) have been systematically scanned for parliamentary debates that engaged with, or made reference to the Bologna Process. Although the results are not representative for all participating countries, the selection of countries still allows drawing some conclusions. Since Germany and the UK represent two Sorbonne signatories and Austria had been deeply involved in the preparation of the Bologna conference it is righteous to assume that the number and intensity of parliamentary debates in these states exceeds the number and intensity of parliamentary debates in the other member states. Additionally these three states offer high variation concerning the organization of their higher education systems (Austria – mainly central steering, Germany – federal system with broad *Länder* competences, UK – high autonomy of higher education institutions). It is important to mention, that this analysis is restricted to debates that made direct reference to the *Bologna Process*. The stenographic protocols have not been scanned for issues like tiered-system (BA/MA), quality assurance, lifelong learning, etc.

[188] See for example: Deutscher Bundestag, Stenographischer Bericht, 165. Sitzung, 16. März 2005 (Plenarprotokoll 15/165).

Nonetheless the sheer number of debates does not say anything about their content[189]. As Figure 8 clearly demonstrates only a minority of all debates can be regarded as being real debates. All of these debates did take place in Germany, which again points to the question of authority already mentioned above. Additionally these real debates did all take place shortly before respectively after the big ministerial conferences in Berlin 2003 and London 2007. Besides a small number of debates focusing on issues of implementation, most of the contributions just made reference to this process. Questions of implementation and of course debates in which only reference was made to Bologna, were not only restricted to the realm of higher education but did cover a range of topics connected with this initiative[190].

Figure 8: Classification of parliamentarian debates (1999-2008)



Summing up the findings presented above, it can be concluded that real parliamentarian discussions of results take place very seldom. The two years that followed the conference at Bologna were also marked by a lack of debate about this issue. The occurrence of real debates could additionally only be observed in the course of the ministerial conferences. Most parliamentarian debates that mentioned the Bologna

[189] Since it is necessary to investigate if "there are real and meaningful possibilities that the results […] and policies or legislation related to them are amenable to discussion in parliamentary for a, and whether the parliamentary for a are able to define the subject and nature of political responsibility" (Borrás/Conzelmann 2007), not only the number of debates is essential here. Hence the debates in this analysis were divided into three broad categories. Debates in the national parliaments have been classified as real debates where issues from the European level are really discussed and critically questioned, debates about national implementation where the national implementation of distinct Bologna objectives is discussed, and debates in which only a reference is made to the Bologna Process by the way.

[190] For example the amendment of the public services law for officials was debated in the Austrian parliament, making reference to the Bologna-model (Stenographisches Protokoll, 89. Sitzung des Nationalrates der Republik Österreich, 9. und 10. Dezember 2004).

Process just made a short reference to it in a subordinate clause or were engaged with questions of national implementation.

13.4.1.3 How much ex-post parliamentarian control exists?

Taking into account the findings presented above and the ones that come below, it becomes evident that real ex-post control by parliamentarians requires sound information about the procedures at the European level. Since parliamentarians face a limited chance to participate in the process and suffer from an information deficit compared to their minister engaged with matters of Bologna real ex-post control is in fact very difficult to enforce although indeed possible. This can also be observed on the low amount of parliamentary debates that engage with issues connected to the Bologna initiative. Altogether it can be concluded that the chances for ex-post parliamentarian control are very limited due to the reasons presented above[191].

13.4.2 Participation and Responsiveness

13.4.2.1 To what degree concerned citizens have equal access and a chance to participate?

In the beginning it is important to define who these concerned citizens are in this context. Taking the action lines of the different declarations and communiqués as points of reference it can be concluded that persons that are affiliated with institutions of higher education form the core of citizens that are directly affected. It follows that this definition encompasses students of universities as well as for example lecturers at *Fachhochschulen*. Additionally it is necessary to make two important distinctions: First between the decision-making process at the European level and the process of implementation at the national level[192]. Second the temporal component has to be taken into consideration too, when analyzing the possibility of access and chance to participate. An additional, but maybe finally not that pronounced distinction could be made between different groups of people. For a condensed visualization of these distinctions and the main findings see Table 7.

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[191] This does not mean that no events of strict ex-post parliamentarian control have taken place in any of the Bologna member states. Nonetheless this cannot be analyzed in the context of this dissertation.

[192] Here a further distinction could be made between different issues (e.g. quality assurance, degree structure, etc.). The 2007 version of Eurydices' assessment of national higher education structures for example included an assessment of student participation in national quality assurance bodies (Eurydice 2007a).

Table 7: Citizens' access and chances to participate

	Start of Process	Bologna-Regime settled
European decision-making	Depending on group – generally low	Stakeholder associations have a voice in the process
National implementation	Depending on country and/or Institution of HE	Depending on country and/or Institution of HE

Since already the Sorbonne Declaration had been a mainly inter-ministerial agreement one cannot regard the first stage of the whole process as a prime example of a participative bottom-up initiative, quite the contrary. With the exception of a representative of EUA's predecessor organizations, all other actors involved in the preparation and drafting process prior to the conference at Bologna were governmental officials from the national ministries responsible for matters of higher education (Interview 6: 20-25). The first TRENDS study (Haug/Kirstein 1999) commissioned by EUA's predecessor organizations did also constitute a relevant and influential contribution in this preparation phase (see: Chapter 11.2.1). At the conference itself universities' representatives could no more take influence on the decisions taken by the ministers[193]. Additionally the largest group concerned of the changes involved in the Bologna Declaration was neither involved in the preparation nor at the conference itself. This was explicitly stated in the so-called "Bologna Students Joint Declaration" from 1999:

"Finally, we would like to state that we deeply regret that the students were not involved with the drafting of the Sorbonne and Bologna Declarations and to the definition of their objectives even though we are one of the most important populations concerned by the potential reforms. Transparency is needed in the process. Otherwise it will only create unnecessary opposition and confusion. We hope that in future discussions, national unions of students will be associated on the national level and that ESIB" (ESIB 1999)

In the Student Göteborg Declaration things sound slightly different, although it still mentions that students had to "invite themselves to the Ministerial meeting" (ESIB

[193] Following a conference proceedings, universities felt even duped by ministers hurrying ahead (Nägeli 1999).

2001) in Bologna. Here a "growing recognition of the student input in the process" is diagnosed, since student "participation in the Bologna Process is one of the key steps towards permanent and more formalized student involvement in all decision making bodies and discussion for dealing with higher education at the European level. ESIB – the National Unions of Students in Europe, being the representative of students on the European level, must be included in the future follow-up of the Bologna Declaration" (ESIB 2001). The Prague Communiqué finally mentions the need and desirability of student involvement in the establishment of the European Higher Education Area and involves an invitation of student's stakeholder organizations to the follow-up process (Prague Communiqué 2001). It is important at this point to mention that this involvement – that took place at a rather late point – does not mean that the main problems of participation are solved. Although ESU (= ESIB; see: 1.3 List of abbreviations) claims to be the representative of students on the European level this does not mean that students from every country participating in the Bologna Process are really represented, since not every national student union is a member of ESU. Furthermore ESU does not represent students that are not members of their national student unions[194]. Similar matters of fact can be concluded for other stakeholder associations that participate as consultants in the meantime in the Bologna follow up framework. Interestingly Business Europe, an organization that cannot be regarded as representing interests of citizens encompassed by the definition given above, has been also invited to participate[195].

Clearly the level of national implementation does not stand in the center of the analysis here. Therefore some general remarks and conclusions from existing studies engaged with these questions will be summarized in the following. In various studies, low student participation[196] (and even "disrespect of the student opinions" (ESIB 2005)) concerning the involvement in the national implementation of the Bologna goals (e.g. curricula reforms) is moaned: "Although there has been some progress regarding the student involvement in quality assurance, the participation of students in shaping the

[194] For example students at Austrian *Fachhochschulen* were not part of the ÖH the Austrian student union until 2007. This changed with in the meantime with the amendment of the Fachhochschul-Studiengesetz (BGBl 340/1993 §4a)

[195] This could also serve as a proof for criticisms stressing the creeping marketization of higher education in Europe (see: Chapter 8.4).

[196] The 2003 TRENDS report estimates that at "63% of universities in Bologna signatory countries, students have been formally involved in the Bologna Process, i.e. through participation in the senate or council or at faculty/departmental level" (Reichert/Tauch 2003: 25).

EHEA and in higher education governance in more general terms is still far from being sufficient and well-established in most Bologna countries. The findings reveal that since 2005 there has hardly been any improvement on the involvement of students. In some cases, the situation even worsened[197] as compared to 2005" (ESIB 2007).

Altogether student (non-) participation is at least well documented, which cannot be stated for the other groups. One study available has been undertaken by Gornitzka and Langfeldt (2005) for Education International[198] among its member organizations in Europe. This study had the aim to gain comparative data on perceptions and views of European academics concerning the Bologna Process. Concerning participation at the national level a mixed picture emerged – as suspected above – including no participation at all to advanced forms of participation (Gornitzka/Langfeldt 2005: 13). This study also underlines the expectation formulated at the beginning of this chapter that "the impact of [EI's] organization's work with the Bologna Process has varied according to the stage of the processes. Its role has been central when the details of the national implementation have been worked out; while the impact has been much more moderate at the stage when the overarching, principled decisions were made" (Gornitzka/Langfeldt 2005: 17).

Summing up the main findings, it can be concluded that the chance to participate and to get access for concerned citizens starkly differs in the different stages of the process. Whereas during the preparation phase and at the main conference no real citizen participation was possible, in the meantime representatives of the main stakeholder associations participate on a regular basis. Two restrictions have to be made here: first the main framework and the most far-reaching reforms have been decided in the first stage without much citizen participation. Now that this central framework is settled, participation – which means more or less discussion about details – is possible. Second participation at the concrete implementation stage cannot be assessed here. Nonetheless it can be stated that there the chances to participate differ from country to country, respectively between institutions of higher education and that does also not take place in

[197] This report explicitly mentions Austria as an example, where the situation has worsened (ESIB 2007), mainly due to the invention of a new university law in 2002 (Universitätsgesetz 2002). See also the chapter about Austria in: (ESIB 2005).

[198] Education International is a global union federation composed of 348 member organizations from 169 countries (http://www.ei-ie.org/).

either case. As the example concerning the student's stakeholder organization ESU, that does also not represent all the students concerned from the Bologna Process, has shown: *equal* access for all citizens concerned is not asserted.

13.4.2.2 How much response is there to societal demands?

It is very difficult to assess the proportion of actions taken that is due to societal demands. Again one can make a distinction between the national and the European level and between the beginning of the whole process and later stages (see: Table 7). Nonetheless taken altogether one can surely state that from the beginning on the Bologna initiative had been an elite-driven process and surely not a direct response to popular demands. Since there is evidence that this European initiative was even planned to be used to foster reforms at the national level and to overcome domestic resistance (see: Chapter 11.1.1) it can be concluded that at this point of the process the initiative even ran diametrically opposed societal demands. One should also not forget that the agenda was strongly influenced by a small group of people, mainly experts in this policy field. Hence one could maybe also identify some kind of epistemic community to be at work here (Interviews 3:355, Interview 6: 15-20). If anything the Bologna initiative was demanded by ministers their officials and some experts, not from the society. Since the Bologna goals and the process as a whole were not very much known in a broader public in the first years after the 1999 ministerial conference, societal demands did not very much focus on this topic. Concerning the implementation of the agreed upon action lines, especially the tiered study-structure it is also not the case that it was broadly welcomed, especially not in the country from which the reform process mainly originated, France (see: THES, 29.04.2005).

Anyhow, viewed from another level things maybe are not that clear. The Bologna reform initiative cannot only be discussed concerning its measures that have to be implemented. Including the main goals and intentions may make all the difference. Since lacking competitiveness of European universities, decreasing employability of graduates and also concerns about the length of studies did play a role in the beginning one could also regard this initiative as being a part of a larger puzzle. Increasing the competitiveness of Europe with this initiative can be of course regarded as one reaction (maybe not a perfect one) taken by politicians to societal demand. From the discussion above it follows, that the broad goals and intentions that stand behind the Bologna

Process can of course be regarded derived from societal demands, but this does not apply to the concrete implementation of the Bologna-Regime. Response also requires public debate, which is discussed below.

13.4.2.3 How much real public debate about the content exists?

Since the whole process is organized intergovernmentally public debates will be also structured accordingly. Hence it is not my intention to search for a kind of European public debate, which would presuppose the existence of a real European public sphere. There exist discussions inside of the transnational stakeholder associations but this is not what is meant in this context. Furthermore a real public debate can only arise if one precondition is met in advance: At least a minimum of common knowledge about the cornerstones of a reform initiative has to exist. This knowledge requires transparency, information and media coverage (see below). Clearly it is not possible in this dissertation to try to identify a public debate and its content in all of the Bologna member states. Nonetheless an analysis of selected media that makes up the data source for one of the questions in the next section reveals that in the first years of the process not even a specialist debate in the newspapers did exist. Additionally there did apparently not exist solid information about the basics of this initiative. Therefore it is not possible to identify a real public debate about the content of this initiative.

13.4.2.4 To which extent do parliamentarians participate in the decision-making process?

Apart from the first stage of this initiative where only a restricted number of actors had the chance to participate, as discussed above the process did stay to a large extent an inter-ministerial one. Hence mainly officials from the national ministries responsible for matters of higher education (in some cases replaced by well-informed and strongly involved members of national universities or rectors' associations) and representatives of the organizations involved in the follow-up participate[199]. National parliamentarians are not regularly involved in this decision making process at the European level. This does also apply to member of the European Parliament. The EP is not involved at all concerning Bologna and has to rely on information by the European Commission. When the Commission supports projects (in the framework of the Bologna Process) they

[199] See for example the lists of participants in the BFUG meetings, that can be found on the official Bologna secretariat website (e.g.: http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG11Listofparticipants1704.pdf)

inform the EP, which in course of this exchange has a chance to deliver its opinions (Interview 3: 315-340). One should in this context also not forget the fact that the Bologna Process does not take place in a vacuum totally outside the sphere of European Union politics. Some Bologna action lines and measures are tightly related to actions taken inside the EU[200]. At the national level parliamentarians are included in the implementation process, as far as their approval is needed – which is not in every country the case. Nonetheless one should not forget here that parliamentarians' actual influence is often reduced to accepting or refusing the legislative proposals (see Chapter 13.2.4). Summing up parliamentarians chance to participate is very limited. They also face an information deficit compared to their governments or at least the respective minister responsible for higher education, which makes it even more difficult to actively engage in this process. This opens up the chance for the national ministers to use this two-level environment in favor of their reform attempts.

13.4.2.5 Is the deliberation open concerning the policy substance?

Taking altogether the findings presented in the chapters 10 and 11 of this dissertation, it can only be concluded that the cornerstones and main goals of the Bologna-Regimes were already fixed from the beginning on. After the Sorbonne Declaration the invention of a tiered system – which represents the one big novelty concerning the substance of the whole process – was no more open to real challenge. The details of this framework were in the following of course open to deliberation, concretion and change but this does not apply to the basics.

13.4.2.6 Are final decisions reached by arguing and convincing or by bargaining?

Since I do not have access to the decision making process in this Bologna-Regime or concrete data about this aspect it is not possible to assess the decision making process concerning this question. Additionally it is generally not very easy to draw a clear distinction between arguing and convincing and bargaining. Anyway, what can be said is that in the BFUG hardly ever voting takes place. Hence decisions are mainly reached by arguing. Effectively, only the place where the next conference will take place and new board members are subject to voting (Interview 4: 165-170). Nonetheless even this

[200] Take the example of a European register for quality assurance agencies, which is included in the 2005 Bergen Communiqué (Bergen Communiqué 2005) as well as in a Recommendation of the Parliament and the Council from 15. February 2006 (2006/143/EC), that builds upon a Council Recommendation from 1998 ((EC) No 561/98). Hence for some issues a system of cross-referencing can be stated.

cannot be taken as an indicator for bargaining, since voting may also just be a ritual. Two further remarks have to be made in this context: First, in the beginning of this initiative not everything (concerning the content) was open to deliberation (see passage above). To some extent it was a choice between joining or not joining this initiative. This does also apply to new joining members. Second, since there do not exist enforcement procedures that ensure appropriate implementation of the reached decisions it can be assumed that the Bologna-Regime is not the appropriate forum for rounds of negotiations hard as bone[201].

13.4.3 Transparency

13.4.3.1 Tractability of process and results

When you are searching for the text of the Bologna Declaration in Polish, wondering what the last official Bologna seminar was all about or striving to get to know the year when Cyprus joined the process this is an easy task for you in 2008 (at least if you speak English and have internet-access). All you have to do is just visit the official Bologna Process webpage that is regularly updated by the Bologna secretariat. Leaving a time machine in the year 1999, even gathering basic information about the Bologna Process becomes a specialist's task. In the next section questions of media coverage are independently discussed but it is still legitimate at this place to mention, that the Bologna Process was accompanied by an astonishing lack of media coverage. In the preparation phase – before one can really speak of a real (Bologna) process – things were much worse. Only a small group of experts, involved in the preparation of the conference and the new declaration knew what was really going on (see chapter 11.4.2.1. preparation and reformation), since apparently not even all of the ministers convened at the university of Bologna really knew what they were signing (Interview 6: 66-68, Interview 7: 121-123).

After the meeting at Bologna the situation concerning information about the process and the results became slightly better. Nonetheless information about this initiative and the original text of the declaration itself were only available at some of the national ministries' webpages, at some national rectors' conferences' webpages and on

[201] What use is it to insist on one concrete standpoint (especially since the main framework has already be settled and is no more open to debate) when the implementation bases on voluntary action? See: (Schäfer 2005).

webpages of some stakeholders associations[202]. Hence information was not very widespread and did not reach a broader public (apparently not even a broader academic – and therefore directly affected - public) in the first years following the signing of the declaration. The fact that even after 2004 (see section below) newspaper articles engaged with just explaining the most fundamental basics of this initiative additionally supports this claim. Summing up it was not very easy for the public to retrace the process and its results. This opacity did also lead to misunderstandings concerning the role of the EU and the Bologna-Regime's legal obligation. One could suspect that these were not always unwanted or accidentally[203].

Since the ministerial meeting in Berlin the problems as described above do no more fully apply. Already before the conference took place, a website (http://ww.bologna-berlin2003.de) was set up that contained the main documents and information as well as links to the participants[204]. Since then, prior to every conference an own website was set up[205], covering all the important information (main documents, calendar of events, etc.), as well as additional information and news. Due to the fact that in the meantime loads of additional information about the Bologna Process and its results can be found on multiple websites[206] this information deficit has decreased. Since the main decision have already been taken shortly before the Bologna conference in 1999 and until the Berlin meeting in 2003, this does however not change the unsatisfactory overall impression concerning the traceability of the decision process and it's results.

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[202] See the link list in the document: (Confederation of EU Rectors' Conferences/Association of European Universities (CRE) 2000)

[203] For example, the former rector of the University of Regensburg Alf Zimmer did warn against action taken by the ECJ in case of non-implementing the tiered system according to Bologna (Süddeutsche Zeitung, 23.1.2004). Even if this was rather due to strategic reasons (fast implementation?) and not due to ignorance, the fact that this initiative lends itself to such strategic misinterpretations and manipulative misuses points to possible problematic consequences of lacking information and transparency. Concerning the question of legal bindingness – in fact it is *not* binding – the same game was played. Therefore the lacking transparency of the Bologna Declarations' legal scopes that invited for strategic interpretations may enhance "the perception that Europeanisation leads to a democratic deficit" (Hackl 2001a). See also (Brunkhorst 2006) on this point.

[204] See: Minutes of the 2nd Meeting of the Bologna Preparatory Group (http://www.ects.ch/docs/lehre/bologna/europa/wichtige/bpg1212.pdf)

[205] http://www.bologna-berlin2003.de/ => http://www.bologna-bergen2005.no/ => http://www.dfes.gov.uk/londonbologna/ => http://www.ond.vlaanderen.be/hogeronderwijs/bologna/

[206] This ranges from national ministerial information-platforms (e.g. http://www.bmwf.gv.at/submenue/euinternationales/bolognaprozess/) to studies and reports published by stakeholder associations like ESU (e.g. http://www.esu-online.org/documents/publications/bwse2007.pdf.)

13.4.3.2 Media Coverage

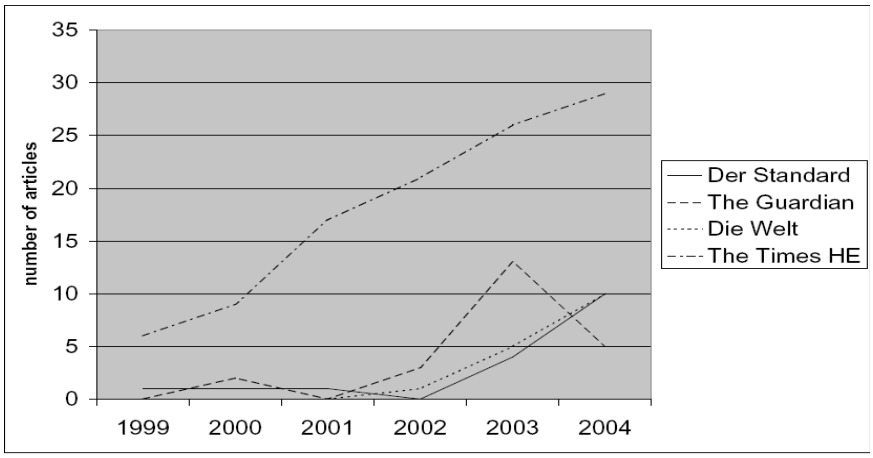
Concerning the news coverage and the presence of the Bologna Process (see: Figure 9) in the media two main conclusions can be drawn from the analysis of selected newspapers[207]. Firstly, the preparation phase as well as the two years following the conference at Bologna show a considerable and amazingly nearly complete lack of articles engaged with a discussion of, or even sound information about this issue. Even the weekly-published Times Higher Education Supplement, a magazine specialized on matters of higher education that published as expected always the highest number of Bologna-relevant articles, did only contain six relevant articles in the year 1999. This very low news coverage begins to change slowly from the year 2002 onwards, although still then the Bologna reform process – and increasingly its implementation – is apparently of only minor relevance. It is interesting in this context, that even in the year 2004 and 2005 the fundamental basics of the Bologna Process (main goals, participants) are explained to the obviously uninformed readership (e.g. Der Standard, 5.6.2004, 8.10.2005). It is regarded as being understandable that one has never heard of the "cryptic term" Bologna Process and its content (Die Welt 15.4.2004, 16.10.2004).

Secondly, mainly actual domestic issues shape the discussion in the newspaper articles and their frequency. One could assume that the events at the European level, the ministerial conferences (Prague 2001, Berlin 2003, etc.) would be accompanied by an increase in corresponding newspaper articles. But this is simply not the case. In fact, national developments and debates about issues of higher education reform influence the news coverage by a far larger degree. Evidence for this claim can be attached for example to the very strong increase in the number of articles published in The Guardian in 2003. Due to this increase the number of articles considerably exceeds the corresponding number in the Austrian and German newspapers. The reason for the increase is the publication and the following heated debate about the so-called White Paper engaged with the future of higher education in the United Kingdom (White Paper

[207] For the purpose of this question three quality newspapers have been systematically scanned for articles (reports, analysis and comments), containing a discussion, information or at least a cross reference to the Bologna reform process. Although the results are not representative for all participating countries, the selection of newspapers still allows drawing some conclusions. Since newspapers from Germany and the UK (two Sorbonne signatories) and Austria (starkly involved, holding EU Presidency in the preparation of the Bologna conference) have been used it is righteous to assume that the media presence of the Bologna Process exceeds the presence in newspapers from other countries. For comparison the Times Higher Education Supplement – a magazine specialized on issues of higher education that is published on a weekly basis – has been included in the analysis and graph.

2003), that was presented to the parliament in January 2003. Besides this mainly national discussions – that of course make reference to the Bologna Process otherwise they would not have been included – events at the European level do only to a very small degree stimulate reporting. So, the German newspaper Die Welt did contain the majority of its 2003 articles on the Bologna Process following the ministerial conference in Berlin (Die Welt 19.-21.09.2003). Interestingly the same does not apply to the ministerial meeting in London in 2005 and the Guardian's reporting.

Figure 9: Bologna Process – Media presence



13.4.3.3 Monitoring, reporting and verification (in the implementation phase)

Clearly a process based on peer-pressure, naming- and blaming needs reliable, comparable data. Hence the preparation of corresponding monitoring reports is indispensable for the success of such a process. Since the Bologna-Regime does not include any other enforcement procedures than the ones described above, one can expect a well functioning monitoring and reporting procedure to be in place. And indeed there exists a group of people who is responsible for the preparation of so-called stocktaking reports to be presented at the biannual ministerial conferences. In the next section I will look a little closer at this stocktaking exercise. Since the main arguments are already included and discussed in chapter 10.4. I will focus on the central aspects that are of relevance here to avoid unnecessary redundancy.

Taken literally the Bologna Declaration itself burdens the national ministers responsible for higher education convened, with the assessment of "the progress achieved and the

new steps to be taken" (Bologna Declaration 1999). Other (independent) measures to monitor progress were not included in the original plan. Therefore before the ministerial conference in Berlin in 2003 only background reports, summing up the outcomes of the main events at the European level, rather than analyzing the progress at the national level were prepared. These reports (Lourtie 2001; Zgaga 2003) did not contain comparable data themselves. This does not mean that no assessment of the progress did take place at all, but not systematically and not by clear appointment. National efforts to comply with the Bologna guidelines and the overall effort were partly assessed by EUA's TRENDS studies as well as EURYDICE's reports.

As already mentioned official stocktaking and reporting did not take place until the ministerial conference in Berlin 2003. There the establishment of an own stocktaking exercise was decided with the goal of measuring the mid-term progress until the conference in Bergen in 2005. One point that is problematic in this context: The main data sources on which the whole stocktaking exercise is based are national reports submitted by the participating countries, although some additional data stems from EURYDICE, EUA and ESIB reports too (for more on the different methods of data collection of these reports, and the problems entailed see chapter 10.4). Nonetheless the main data sources are the national reports. These are not always submitted on time, and do not always directly answer to the questions that are asked (Bologna Process Stocktaking 2007). Taken altogether the whole stocktaking procedure strongly relies on reliable and valid national reports, which makes a certain degree of window-dressing possible and the effectiveness of peer-pressure based on these reports unlikely.

13.5 Summary

Returning to the main intention of this chapter – that is the elaboration of the Bologna-Regimes democratic legitimacy and quality – one can now summarize the reasonable judgments that have been discussed above.

Altogether a rather mixed picture emerges. Problems of accountability have turned out to be not the worst deficits in this regime. Especially the ministers involved can be held responsible by their national parliaments, even though this may be difficult due to information asymmetries, lack of transparency and their unique position in this two-

level environment. Rather problematic in this context is the strong involvement of the European Commission and the overall EU-bias that had not been present from the beginning of the initiative but did increasingly creep in. Chances for real ex-post parliamentarian control are very limited especially due to the already mentioned informational deficit. The very low number of parliamentary debates that really engage with a discussion of the results supports this claim.

Participation of concerned citizens heavily depends on which stage of the process (temporal component), which level (European or national) and to a lesser degree which group of people one is looking at. Especially in the beginning – during the preparation phase and at the main conference at Bologna – no real citizen participation was possible. In the meantime however at least the main stakeholder associations regularly participate and they also have a voice in this process. Due to the internal organization of these stakeholder associations equal access for all citizens concerned cannot be asserted. As an additional restraint it has to be noted that especially the main framework and the far-reaching changes have been decided in the first stage without much citizen involvement. This also points to the problem that this process altogether does not depict a direct response to societal demands but is rather an elite-driven initiative that's policy substance was already fixed in the beginning and not very open to discussion. Real public debates could also not be identified.

One of the most problematic aspects of the Bologna-Regime concerns the overall transparency. Especially in the beginning of the whole process a nearly complete lack of information and media coverage made it very difficult to trace this process without specialist knowledge. Monitoring and reporting activities were also not institutionalized on a regular basis at the beginning. Fortunately things have improved since then.

From a more general point of view one could now come to the conclusion that since the whole initiative is nothing binding, government's accountability is formally secured and concerned citizens can now also participate through their stakeholder associations everything is finally fine in this regime concerning democratic legitimacy. Besides the considerable European Union bias that discriminates participants from non-EU countries nonetheless not everything is finally fine. Ministers had the chance and also some time for their higher education reforms following the Bologna conference, which

had additionally not been a meeting responding to demand from society. Non-existent citizen participation, low media coverage and informational deficits made it possible to start a clear top-down reform process confronting the uninformed and not involved with a European reform agenda of which nobody really knew if it was binding or not. Now that the main reforms have taken place and the Bologna reform process is relatively on track problems of transparency have decreased and stakeholder associations can also participate. Hence the inclusion of this temporal dimension sheds a different light onto the Bologna-Regime concerning questions of democratic legitimacy and quality, and it makes us aware of possible democratic deficits due to an internationalization of governance and the need to look very closely at the action of governments situated on more than just the national level.

14 Conclusion

It has been the aim of this dissertation to come to explanations for the emergence of the Bologna Process and for its institutional form. Here especially the questions why this initiative does take place outside the EU framework and why this cooperation is only soft coordinated, stood in the center of the analysis. This research agenda was complemented by an assessment of the democratic legitimacy and quality of this institution. Theoretically the first part of this dissertation does mainly build upon regime theory. Since regime theory does to large extent neglect questions of democratic legitimacy the respective part of the analysis does widen the theoretical spectrum and also builds upon the concept of democratic audit. Hypotheses were derived and developed from these theories that guided the whole research process. From a methodological point of view it can be stated that this research project bases on a single case study. Besides primary data like the official communiqués data stemming from expert interviews with experts in this policy field and from a comprehensive e-mail survey were analyzed and used for answering the research questions. Altogether these findings are broadly discussed and also already summarized in the respective chapters. Therefore the following of this chapter focuses on a discussion of the empirical and theoretical contributions of this research project. Since it is not always very easy to discuss them separately the bulk of these issues are included in the section engaged with the theoretical contributions. Finally avenues for further research and some remarks concerning the future prospects of the Bologna Process itself will be made.

14.1 Empirical contributions

When this research project started, only a few articles and working papers did engage with the analysis of the Bologna Process. Hardly any of those could provide an explanation for the emergence of this process that was based on empirical data and prior theoretical reflection. Concerning the form and democratic legitimacy of this process no research did exist at all. Although this has changed a little in the meantime for the first point, questions concerning the form of this initiative to coordinate higher education policy at the European level are still awaiting their answers. Hence this dissertation does especially contribute to the empirical understanding of the Bologna Process by providing a systematic, theory-based analysis of the causes that lead to this initiative

and of its following institutional development. Above all the latter one is important in this context, since this research project is the first one that engages with the analysis of the form of this regime. Apart from the case itself another small piece has been added to the puzzle of understanding the dynamics of cooperation in different policy fields in Europe. Finally it is demonstrated in this dissertation that questions of democratic legitimacy and quality of a distinct regime can not only be discussed theoretically apart from the concrete case. Instead it is possible to make an assessment that is based on certain indicators and benchmarks that are applied to the concrete case. This is no claim that it is possible to easily measure the democratic quality of an institution but that these value judgements can at least be informed by empirical observations.

14.2 Theoretical contributions

Again, it could be demonstrated in this dissertation that explaining the emergence of institutions at the international level deserves a lot more than just an ex-post focus on the function and functioning of these institutions. The same does apply to an interpretation that treats the emergence of these institutions only as logical derivations of existing salient problems quasi as functional solutions. Hence the analysis of the genesis of the Bologna-Regime provided in this dissertation tries to avoid simplistic and unicausal explanations. Therefore pre-existing trends and problems in the policy field of higher education as well as the interests of strategically acting governments have been included in the discussion, too. It could be shown that it was in the beginning above all the parallel of interests among a small group of European ministers responsible for higher education, who aimed at widening their room for maneuver concerning the enforcement of their preferred domestic policies, that started the initiative. Like in other forms of governance at the European level governmental exploitation of the advantages provided by a two-level environment and the possibility to obtain leverage for domestic reform or at least a helpful European excuse could be observed. Clearly their approach can only be properly understood in the wider temporal context. Increasing interdependences in higher education but also in related policy areas – inside Europe as well as beyond – a steadily growing student population and the increasing importance of the so-called higher education market did enhance pressure exerted on their national systems of higher education. Not to speak of issues and problems situated inside the individual national higher education systems like increasing length of studies,

decreasing overall competitiveness under conditions of resistance against reform due to path-dependences or a specific allocation of rights and duties. Already existing European initiatives and cooperation in this policy field together with experts' recommendation for a common solutions framework reinforced these existing dynamics.

From a regime theoretical point of view it is on the one hand very interesting to note that especially the need for entrepreneurial leadership in the creation of a regime could be observed here very well. On the other hand the assumption that a regime is created mainly by a core group of actors with the strongest ex ante power position could not be supported in this case. Although a group of powerful actors exerting disproportionate influence in the regime building process could be identified, it could nonetheless be shown that other actors involved were not only additional but influential and necessary in this phase.

It had also been the aim of this research project to shed some light on the actual dynamics of cooperation in a distinct policy field at the European level. Here especially the question why this initiative to coordinate European higher education did take place outside the European Union framework – understood in this context as the logical focal institution – stood in the center of interest. Put shortly, it had been demonstrated that not only the lack of treaty base or the transboundary nature of the coordination problem – many issues of higher education also transcend the borders of the European Union – can be employed as explanations. Instead, especially the institutional preferences of the most powerful actors, supported by most other actors in the regime building process could be identified as crucial. The conjecture that asymmetry concerning membership in the EU and the group of actors aiming to coordinate their higher education policies did play a role in the dismissal of the EU as the appropriate institutional solution did not prove true, since it turned out that – although the initiative did take place outside the EU – it was nonetheless above all EU member states that were in control. Hence it is also important not to underestimate the role EU member states play in the process and the role and influence of the European Commission. These findings again demonstrate that besides the classic Community method also other forms of cooperation exist at the European level that can additionally not be regarded as a pre-step to further integration. Nonetheless the intense Commission involvement and the reliance on patterns borrowed

from inside the EU context – like the role of the Presidency in the follow-up – show that the borders are not that clear-cut but have become blurred. Since this fuzziness does also apply to the concept of Europeanization it may be eventually legitimate to speak of a Europeanization of higher education, as a mere description not an explanation. Interestingly the concept of path dependence may not only be applied to account for the stickiness and reform resistance of national systems of higher education but also to explain the slowly but steadily increase of European Union influence concerning the Bologna Process. Even without formal mandate coordination concerning a lot of higher education matters and related issues take place in the EU framework, which may account for the creation of self-reinforcing sequences.

Interestingly the findings to the question why the cooperation in the framework of the Bologna-regime does only base on soft coordination did above all point to some difficulty for a theory-based explanation. Hence most of the hypotheses applied had to be refined or simply did not prove true in this case. Focusing on the main findings it can be stated that soft coordination has proven to have more merits than just cover governments' inability to agree on concrete common goals. Nor is it the fear of governments about unintended consequences due to uncertainty, as often mentioned in theoretical concepts that could be detected as the explanation for their preference of soft coordination. What could be shown in this dissertation anyhow, is that on the one hand governments employ soft coordination to widen their room for maneuver and on the other hand that it is especially the powerful founding members of a regime – the so-called enactors – that decide about the form of this institution. In the case of the Bologna-regime they opted for soft coordination.

Clearly questions that engage with the form or design of regimes are very common in the respective theoretical literature. This can be traced back not at least to the fact that they are just at the surface merely technical or boring. Far from this, clearly the form of a regime also entails consequences concerning the distribution of gains or losses as well as implications for the democratic legitimacy of governance. Whilst the first ones – questions of distribution – are well embedded in the neoliberal and realist regime theory tradition and therefore regularly taken up, regime theory largely neglects effects on democracy and possible democratic deficits. This disregard is regrettable, since governance beyond national borders is increasingly becoming important, not at least

due to the fact that many issues cannot more be handed by a single state alone. One part of this dissertation has already shortly discussed some of the most salient problems and deficits of democracy in this context. It has also been discussed that the interaction of democratically elected governmental representatives at the international level does not necessarily prevent the emergence of democratic shortcomings. Since regime theory does not provide a useful framework for this kind of analysis a framework for analysis has been developed in this dissertation mainly building on the literature engaged with democratic auditing.

For the concrete case, the Bologna-regime it could be shown that above all the inclusion of the temporal dimension does unveil many problematic aspects and deficits concerning the democratic legitimacy and quality of governance. Especially the first phase in which the establishment of this regime, the development of its main principles, norms and rules took place, was marked by several problematic aspects ranging from non-existent citizen participation, to low media coverage and informational deficits that made it possible to start a clear elite driven, top-down reform process confronting the uninformed and not involved with a European reform agenda of which nobody really knew if it was binding or not. After this first important phase of the whole process in which the main decisions were taken the time to allow for a little more democracy had come: Problems of transparency decreased and the participation of at least a certain amount of citizens concerned through their stakeholder associations is now partially secured. Taken altogether it could be demonstrated that the accountability of governmental representatives is at least formally secured although they are surely favored against their principles – the national parliaments – due to information asymmetries, the low overall transparency and their privileged position in this two-level environment.

Summing up these findings it can be concluded that regime building processes should not be only discussed concerning their effectivity and problem-solving capacities but also from a standpoint that includes questions of democratic legitimacy and quality as well. Besides the importance of including the temporal dimension that could be asserted in this dissertation especially the need to look closely at the action of governments situated on more than just one level – and therefore equipped with the possibility to exploit this two-level environment – could be demonstrated.

This dissertation makes especially three contributions to a comprehensive theoretical understanding of actual dynamics in the policy field of higher education and to a further development of critical theory-based policy analysis in general:

First of all, it could be demonstrated that the application of regime theory – a strand of theory usually used in International Relations – to a policy field in which it has not been used before to my knowledge is not only possible but a fruitful proceeding that helps to avoid and overcome shortcomings of other theoretical approaches that have been regularly used to similar cases. Especially the strong intergovernmental character of the Bologna Process – that has admittedly decreased in the meantime – with all its implications is embedded in regime theory and could therefore also be demonstrated very well in this case. Clearly this focus on governmental actors has its deficits too. Hence the role of experts in the agenda shaping process and their problem solving contributions do not stand in the center of analysis. Here theoretical approaches that build upon the concept of epistemic communities are maybe better suited to go into those details. Nonetheless non-governmental actors have not been neglected in this analysis, as the hypothesis engaged with entrepreneurial leadership clearly demonstrates. A very helpful additional contribution of regime theory concerns its usefulness in providing a conceptual framework and dividing the process into different stages. Taken altogether this surely is one main strength of this approach that should not be undervalued.

Second, it could be demonstrated that an analysis that primarily aims at the explanation of a certain case can be useful accomplished with the combination of different theoretical approaches rather than just using a single one. Besides regime theoretical approaches stemming from the realist and neoliberal school of thought especially the two-level game model and the institutional choice tree that also considers the institutional status quo as a crucial factor in the analysis did contribute to this analysis. The latter model also helped to link the discussion of existing cooperation in European higher education with the explanation of the concrete case and to provide a useful theoretical explanation of the European Unions' role at the beginning of the whole process. It could also be shown that the two-level model is a very useful theoretical tool, when it comes to explaining the action of governmental

actors. Altogether it could be demonstrated that the approaches used in this research project are better suited to explain the regime building itself than the concrete form this regime takes.

Third, a solution to the considerable – and for the critical scientist unsatisfactory – neglect of the dark side of cooperation at the international level could be provided in this dissertation. Regime theory is not sensitive to problems and deficits of democracy. Hence this research project does also contribute to overcome this dissatisfactory lack with the development of an assessment scheme that can be used to systematically analyze a regime's democratic quality and come to qualified judgments (not measurements!) in the following. Clearly this proceeding is only one possible way of approaching the issue of democratic legitimacy and quality. Nonetheless I regard this justified proceeding that builds upon existing concepts of democratic audit as a vital and important part of this research project. Even if some of the evaluation criteria may not be perfect ones, this framework nonetheless allows for a systematical assessment of a distinct case, the provision of the overall picture concerning its democratic quality and the pointing out of certain problematic aspects and deficits. Eventually this auditing framework is open to discussion, further development and refinement. It would additionally be very interesting to apply the framework – in adapted and refined form – to other cases, and see if common patterns can be detected. Besides these considerations that are mainly of theoretical interest also practical conclusions and lessons may be drawn by actors involved in the policy making process to reduce problems and deficits of democracy.

14.3 Future prospects

Clearly this dissertation mainly focused on the European level, not at least due to the regime theoretical approach employed. Therefore an in-depth analysis of what has happened in the field of higher education policy at the national or even sub-national level could not be delivered. Only the part that discusses the agenda formation stage of this regime building process partially touches some relevant developments at the national level. Hence further research in this policy field and on this case could maybe focus a bit more on the developments at the national level. This proceeding would also

entail the building upon other theoretical approaches, like those engaged with policy convergence for example. As already mentioned the operationalization stage of a regime building process does also encompass more than just the European level. Therefore only the analysis of the implementation at the national level would unveil if the agreement successfully has been transformed into a working social practice finally. The observations concerning the national implementation that are presented in the respective chapter of this dissertation exemplarily underline the need for further – detailed – research. Taken altogether an analysis of the developments and changes that took place at the national level and their retroactivity on the European level seems to be a very interesting and promising field or further research. Since the so-called European Higher Education Area should be completed by the year 2010 it is additional highly advisable to independently assess the reforms and actions taken and the overall progress and achievements of the Bologna Process.

Interestingly, especially one aspect of this dissertation raises important questions for further research: It could be demonstrated that the Bologna-regime as it was planned from the beginning on was at least concerning its legal standing strictly separated from the European Union. Too much influence of the European Commission should be avoided. As has been shown this clear-cut dividing line has become blurred in the meantime. The European Commission has become a full member of the follow-up process – which has additionally concerning its structure a clear bias towards favoring EU member states – and also financially contributes to the overall process. Not only at the level of advertising the Bologna Process is marked by the Commission as being part of a bigger framework (“Education and Training 2010”) that also integrates the Copenhagen process (cooperation in the field of vocational education and training) which is situated inside the EU framework. Both contribute according to the Commission to the reaching of the Lisbon objectives. Apart from this mere rhetorical level close connections and increasing cross-referencing can be detected that also lead to concrete actions (e.g. the setup of just one European register of quality assurance agencies). Therefore it seems unavoidable to ask how all these developments fit into the larger picture of policy making at the European level, how they can be conceptually interpreted and theoretically explained, and which effects on the democratic legitimacy of governance, both at the national and at the European level can be expected at large. Additionally it is of interest to analyze which role soft coordination will finally play in

the process of European policy making that is characterized more and more by a decreasing integrationist dynamic and the upcoming of alternative modes of governance.

Altogether this dissertation did engage with a theory-based, informed analysis from a political science perspective of a very recent and dynamic process in a policy field that is increasingly and quickly changing. Since this process is far from being finished the full amount of changes that it will finally have on the coordination of higher education policy at the European level, on the different European systems of higher education, on universities and last but not surely not least on students and teachers cannot fully be estimated now. One also has to wait and see the consequences that this dynamic initiative which started originally solely as a voluntary inter-ministerial agreement will have on related fields and if and how the process will proceed after its scheduled finish in 2010. Hence from an institutionalist perspective it will be of great interest to watch the further development of the structures that have been established at the European level. It can be expected that this cooperation will not suddenly end then, since some effort has been invested into the establishment of this regime which has in the meantime proven its usefulness for fostering national higher education reforms too. Presumably the taken line will be continued and the Bologna reform agenda will further broaden, as it has steadily since the beginning of this initiative. Following the logic of path-dependency the reliance on intergovernmental cooperation will continue. However it can be estimated that the loose connection to the European Union, especially through Commission involvement will persist and maybe even deepen in some fields, which can nonetheless not be taken as a sign for an upcoming integration of higher education. What surely can be stated is the fact that although the number and interconnectedness of institutions, organizations and agencies engaged with matters of higher education at the European level has steadily increased in the last decade, the main level where decisions are taken in this field is still the national level. Partially national governments or ministers may even be strengthened.

Concerning critics of the Bologna Process it has to be noted, that their predictions and concerns should be taken seriously. Although I do not share the bulk of these pessimistic forecasts, I nonetheless want to express the hope – and this is a final personal statement – that all of these recent developments won’t lead to a reduced

comprehension of higher education as solely being professional training oriented towards the short-term requirements of the labor markets and big companies, for the sake of the European competitiveness. Instead it is highly desirable that higher educations intrinsic value, its importance as an enabling, emancipatory practice will still be recognized and that the possibilities and chances a real common higher education space could provide will be deployed for a further shedding of limitations inside Europe as well as beyond.

15 Appendix

15.1 Figures and Tables

Figure 10: Types of soft law

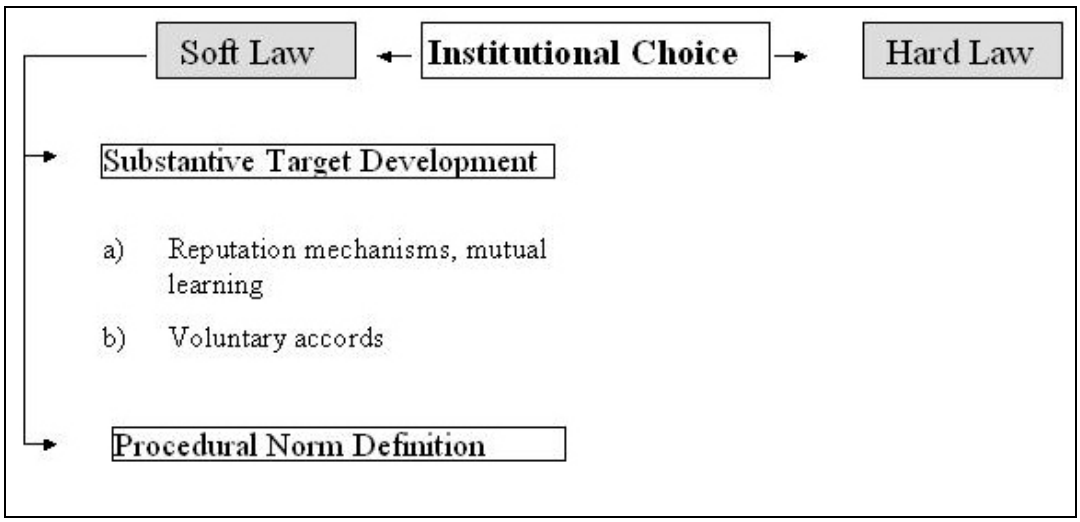


Figure 11: International institutions influencing national higher education policy

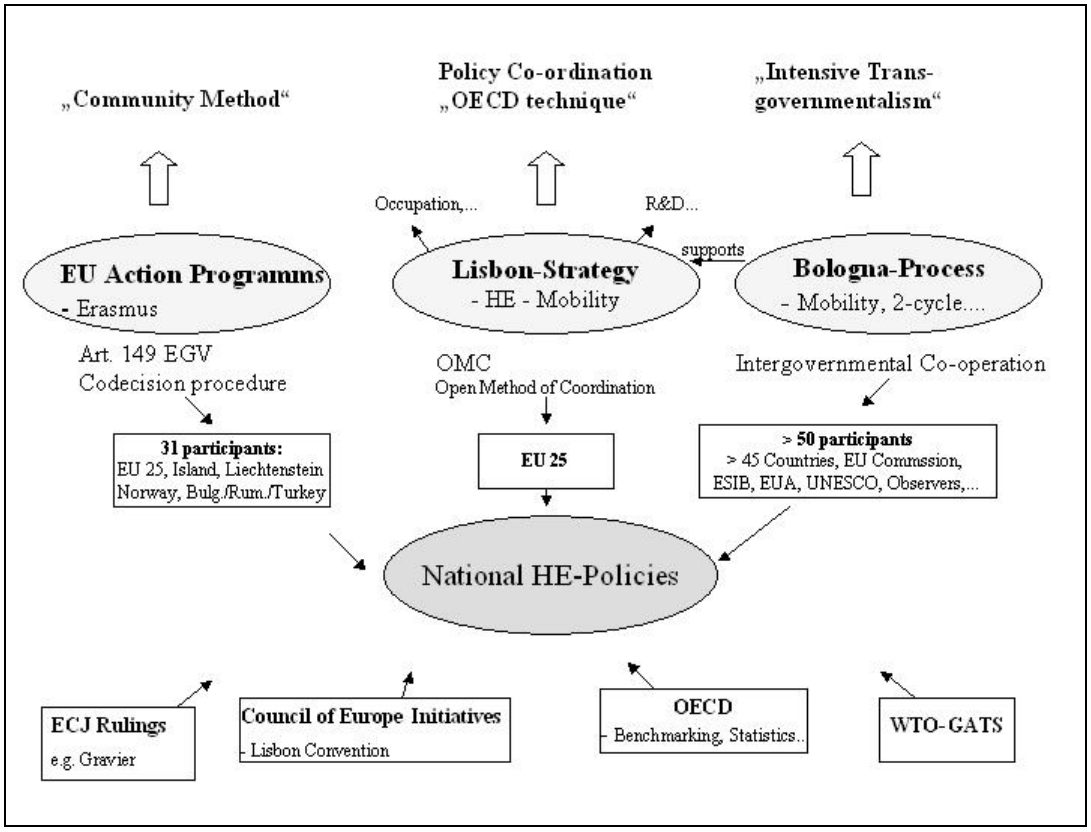


Figure 12: New Bologna member countries (2003-2005)

Source: (Crosier et al. 2007: 71)

Table 8: List of primary data[208]

Declarations and Communiqués adopted by the ministers:

Sorbonne Declaration, 1998: Joint declaration on harmonisation of the architecture of the European higher education system by the four ministers in charge for France, Germany, Italy and the United Kingdom. May 25. Paris, the Sorbonne.

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TRENDS III: Reichert, Sybille/Christian Tauch, 2003: Progress towards the European higher education area. Bologna four years after: Steps toward sustainable reform of higher education in Europe.

TRENDS IV: Reichert, Sybille/Christian Tauch, 2005: European universities implementing
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TRENDS V: Crosier, David/Lewis Purser/Hanne Smidt, 2007: Trends V: Universities shaping the European Higher Education Area. An EUA Report.

[208] All mentioned documents can be found at the official Bologna webpages (the actual as well as the former ones) http://www.ond.vlaanderen.be/hogeronderwijs/bologna/, http://www.bologna-bergen2005.no/, http://www.bologna-berlin2003.de/; the Council of Europe's webpage http://www.coe.int/, and ESIB's webpage http://www.esib.org/.

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"Lisbon Convention": Council of Europe, 1997: Convention on the recognition of qualifications concerning higher education in the European region. European Treaty Series
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European Council, 2000: Presidency Conclusions. Lisbon.

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Table 9: Expert Interviews

Date	Place	Interview Partner
6.4.2006	Vienna	Commission Official
15.11.2006	Brussels	Commission Official
16.11.2006	Brussels	Commission Official
16.11.2006	Brussels	Commission Official
12.12.2006	Vienna	Chairman of Sorbonne follow-up group
12.1.2007	Vienna	Ex- Commission Official, Expert for Higher Education
29.1.2007	Vienna	Former Austrian Minister for Science

Table 10: BFUG/BFUG Board meetings

BFUG meetings	*BFUG board meetings*
17-18 April 2007, Berlin, Germany	23 January 2007, Berlin, Germany
5-6 March 2007, Berlin, Germany	1 September 2006, Helsinki, Finland
12-13 October 2006, Helsinki, Finland	13 June 2006, Vienna, Austria
6-7 April 2006, Vienna, Austria	25-26 January 2006, Vienna Austria
12-13 October 2005, Manchester, UK	15 June 2005, Luxembourg
18 May 2005, Bergen, Norway	18 May 2005, Bergen, Norway
12-13 April 2005, Mondorf, Luxembourg	26 April 2005, Brussels airport, Belgium
1-2 March 2005, Mondorf, Luxembourg	11 April 2005, Mondorf, Luxembourg
12-13 October 2004, Noordwijk, the Netherlands	25 January 2005, Brussels airport, Belgium
9 March 2004, Dublin, Ireland	9 December 2004, Gjerdrum, Norway
14 November 2003, Rome, Italy	13 September 2004, the Hague, the Nederlands
	14 June 2004, Dublin, Ireland
	29 January 2004, Oslo, Norway
	14 November 2003, Rome, Italy

Source: http://www.dfes.gov.uk/bologna/

Table 11: Official Bologna Seminars (2002-2007)

Date	*Location*	*Title/Topic*
2002, March 12-13	Amsterdam	"Working on the European dimension of quality"
2002, April 11-12	Lisbon	"Recognition issues in the Bologna Process"
2002, Mai 30-31	Stockholm	"Joint degrees within the framework of the Bologna Process"
2002, October 11-12	Zurich	"Credit transfer and accumulation – the challenge for institutions and students"
2003, February 19-20	Athens	"Exploring the social dimension of the European Higher Education Area"
2003, March 14-15	Helsinki	"Master-level degrees"
2003, March 27-28	Copenhagen	"Qualification structures in higher education in Europe"
2003, April 11-12	Mantua	"Integrated Curricula – implications and prospects"
2003, June 5-7	Prague	"Recognition and credit systems in the context of lifelong learning"
2003, June 12-14	Oslo	"Student participation in governance in higher education"
2004, Mai 6-7	Stockholm	"Joint degrees – further development"
2004, June 4-5	Gent	"Bologna and the challenges of eLearning and distance education"
2004, July 1-2	Edinburgh	"Learning outcomes"
2004, July 28-30	Santander	"Assessment and accreditation in the European framework"
2004, September 23-24	Strasbourg	"Public responsibility for higher education and research"
2004, October 11-12	Noordwijk	"Designing policies for mobile students"
2004, October 22-23	Bled	"Employability and its link to the objectives of the Bologna Process"
2004, November 4-6	Warsaw	"New generation of policy documents and laws for higher education: Their thrust in the context of the Bologna Process"
2004, November 23-24	St. Petersburg	"Bachelor's Degree: What is it?"
2004, December 3-4	Riga	"Improving the recognition system of degrees and periods of studies"
2005, January 13-14	Copenhagen	"The framework of qualifications for the European Higher Education Area"
2005, January 27-28	Paris	"The social dimension of the European Higher Education Area and world-wide competition"
2005, February 3-5	Salzburg	"Doctoral programmes for the European knowledge society"
2005, February 14-16	Warsaw	"Co-operation between accreditation agencies"

2006, March 30 – April 1	Vatican City	"The Cultural Heritage and Academic Values of European Universities and the Attractiveness of the EHEA."
2006, June 24-26	Athens	"Putting European Higher Education Area on the Map: Developing Strategies for Attractiveness"
2006, July 12-14	Swansea, Wales	"Enhancing European Employability"
2006, September 21-22	Berlin	"Joint Degrees – A hallmark of the European Higher Education Area?"
2006, September 28-29	Oslo	"Looking out! Bologna in a global setting. The external dimension of the Bologna Process"
2006, December 7-9	Nice	"European doctoral studies in transition"
2007, January 25-26	Riga	"New challenges in recognition"
2007, February 8-9	London	"Making Bologna a Reality"- Mobility of staff and students

Sources: http://www.bologna-bergen2005.no/; http://www.bmbwk.gv.at/

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16.1 Newspapers and magazines

Der Standard

Die Presse

Die Welt

Süddeutsche Zeitung

The Guardian

The Times Higher Education Supplement

Wien, im März 2008

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